

Proposed Permit Implementation Regulations
Comments Received During 15-day Comment Period (September 11, 2006 to September 26, 2006)

Section #	Commenter #	Comment	Response
General Comment	15.1-25	The most important concept of any potential permit change is constant communication between the operator and the Local Enforcement Agency (LEA).	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations. The idea of operators giving EAs a heads-up about potential upcoming changes to the design or operation at a solid waste facility is a good and can be promoted in planned EA guidance and training.
21563(d)(1)	15.1-29	<u>Concurrent processing.</u> The language in Section 21563, subsection d(1) could result in one regulatory agency requiring that their permit be handled last. Should every regulatory agency take this approach, nothing could ever be permitted. Therefore, the regulations should specifically say "Complete means all requirements placed upon the operation of the facility by statute, regulations, and other agency with jurisdiction have been <i>addressed</i> in the application package, <u>although they need not have been completed</u> ." Furthermore, the regulations should make it clear that the applicant can waive statutory timelines, because this may be necessary in order to accommodate other permitting processes. For example, section 21580 says that the EA must conduct a hearing within 30 days of deeming the application complete, but it might streamline the process to wait and combine this meeting with another required meeting.	This comment is outside the scope of these regulations.
21563(d)(4)	15.1-23	The Regulations Fail to Require a Public Hearing - AB 1497 requires the enforcement agency to hold a public hearing. Pub. Res. § Code 44004(h). Under the Government Code § 11346.8, public hearing has a specific definition which requires not only an opportunity for the public to comment, but also requires agencies to respond to public comments. Instead of a public hearing, the regulations provide for an informational meeting which does not require a response to comments. Environmental justice is more than simply an opportunity to comment. Public comment must also have the chance to substantively change the project. If there is no requirement to respond to public comments, it is less likely public comment will have an impact on the solid waste facility under review.	The informational meeting is strictly informational in that information is shared both ways from EAs and from attendees. No decision is made at the meeting and the EA is not required to respond directly to comments. Board staff is not aware of any general requirement in state law that agencies holding public hearings provide formal responses to speakers' comments (Government Code Section 11346.8, which applies to public hearings held as part of the State's formal rulemaking process, is an exception). State agencies are required to follow this process in the development of regulations. However, to provide the Board with a better understanding of informational meeting comments and to place the comments in the record of approval as well as any written comments received, and, where applicable, any steps that were taken by the EA in response to those comments, a requirement was added in Section 21650(g)(5) that the EA include with the accepted application package that is submitted to the Board, in addition to written public comments received, "... a summary of comments received at the informational meeting, and, where applicable, any steps taken by the EA relative to those comments." Board staff already asks EAs for this information currently when writing agenda items for the Board meeting. This information assists the Board in determining what general actions if any might be needed to meet EJ objectives. Guidance will be developed for the EA after the regulations are adopted on how they may wish to handle comments received in writing or orally at the informational meeting.
21563(d)(4)	15.1-29	<u>Multi-purpose meetings.</u> Several laws contain requirements for public meetings on permit applications. Section 21660.4 specifies that a CEQA scoping meeting held BEFORE the required EA "informational meeting" may substitute for the information meeting; however, it should also specifically allow that the applicant	PRC Section 44004(h)(1)(A) as amended by AB 1497 requires the EA to hold a public hearing (i.e., informational meeting) within 60 days of receiving an application for a revised permit. This time can only be extended if the application received is incomplete and the applicant has requested a time waiver

Section #	Commenter #	Comment	Response
		may waive the timeline during which the informational meeting must be conducted. This meeting could then be combined with a CEQA scoping meeting that comes too late for the LEA to include it within the specified time limits (section 21580). This comment also applies to section 21563 subpart d(4), section 21570 subpart b, section 21650, subparts e and g(7), and section 21660.2, subpart b. In section 18104.2, subsection e, the following words should be added to the end “or shall attend and participate in a similar public meeting held on the project.”	and the LEA has agreed to the request. In this case, Section 21580 requires the EA to notice and conduct an informational meeting within 30 days after deeming the application complete and correct. Consistent with the intent of AB 1497, the time for the EA conducting an informational meeting is early in the process, prior to the EA making a determination on the permit application, affording the public an early opportunity to be better informed of changes proposed by operators at solid waste facilities. Section 18104.2(e) only requires noticing by the EA and does not require the EA to conduct an informational meeting.
21563(d)(6)	15.1-03	The section refers to the California Environmental Quality Act (CEQA) as Title 14 of the California Code of Regulations, Section 15000 et seq. Title 14 of the California Code of Regulations, [Division 2,] Section 15000 et seq. is the State CEQA Guidelines. A more appropriate citation would be Division 13 (commencing with Section 21000) of the Public Resources Code.	The use of the term "significant change" is only for the purpose of determining when a permit needs to be revised as a process for reviewing and approving the requested changes in design and operation of the facility and approving the requested changes in design and operation of the facility pursuant to PRC Section 44004(a) and should not be used for any other purpose, such as determining when a change in design or operation at a facility triggers compliance with CEQA. Any links to findings of potential environmental effects is not and has not been made an aspect of the definition. Only if there is a need to add to the permit to protect public health safety, the environment or insure compliance with state standards will a permit need to go through a revision process. PRC Section 44004(i)(1) requires the Board to define the term “significant change in the design or operation of the solid waste facility that is authorized by the existing permit.” To further clarify that the definition is only for the purpose specified in PRC Section 44004(i)(1), Section 21563(d)(6) was edited by deleting “making determinations relative to CEQA, Title 14 CCR Section 15000 et seq.” and replacing with “any other purpose.” The sentence now reads: “The definition is only for purposes of determining when a permit needs to be revised and should not be utilized for <u>any other purpose</u> .”
21563(d)(6)	15.1-22 15.1-24	<u>Specific Request</u> –Delete the proposed new text: "The definition is only for purposes of determining when a permit needs to be revised and should not be utilized for making determinations relative to the California Environmental Quality Act (CEQA), Title 14, CCR Section 15000 et seq." <u>Discussion</u> –The proposed new text is unnecessary, ambiguous, ill-defined, confusing, and may be interpreted to mean that a significant change activity is not subject to CEQA, or that the Local Enforcement Agency does not have the authority to require a new CEQA process and documentation for the proposed significant change activity.	Please see response to commenter 15.1-03 regarding Section 21563(d)(6).
21563(d)(6)	15.1-21	In our prior comments, we objected to the proposed definition of "significant change" because of concern that a regulatory test tied to mitigation decisions could result in unintended feedback between CEQA determination, and the substantive decisions made by applicants and EAs. We urged that this connection be recognized, and better managed. The revised text addresses this concern with a patch, by adding the following language in proposed section 21563(d)(6): “ <i>The definition is for purpose of determining when a permit needs</i>	Please see response to commenter 15.1-03 regarding Section 21563(d)(6).

Section #	Commenter #	Comment	Response
		<p><i>to be revised and should not be utilized for making determinations relative to the California Environmental Quality Act (CEQA), Title 14 CCR 15000 et seq."</i></p> <p>For section 21563(d)(6) this clarifying denial is both contrary to fact, and circular. It is contrary to fact because any test of significance for permit classification purposes, that is tied to an EA determination that mitigation is necessary, must have implications for CEQA. This clarification is also circular, because a small "r" decision to revise the permit makes the change a permit <u>Revision</u> instead of a permit Modification.</p> <p>These tensions cannot be wished away, but they could be better managed. The necessary change would be to give EAs discretion to write permits as they should be written, without confusing the inclusion of a <u>condition</u> in a permit, with the significance of the actual <u>change</u> at the regulated facility. Breaking the deterministic linkage in the proposed text would allow an EA to impose "restrictions, prohibitions, mitigations, terms, conditions or other measures to adequately protect human health, public safety, ensure compliance with State Minimum Standards or to protect the environment" in connection with changes that have no actual significant impact, without automatically reclassifying what is small as something big. EAs may include restrictions, etc. in permits for any number of reasons. A condition may be essentially a standard recitation to inform the applicant of an existing legal requirement (e.g., comply with state minimum standards). A restriction or condition may be included in a permit in response to a comment, even if the scenario or concern raised in the comment is not really a significant matter, or even if the restriction or condition is never expected to become a binding constraint based on actual operations.</p> <p>A further concern here is that some permit changes may have significant impacts that can and should be mitigated <u>but not by the EA</u>. Mitigation may instead be imposed by an RWQCB or a resource agency in connection with another required permit. Under the proposed definition, these changes would not be identified as significant because the EA would not impose the necessary and feasible mitigation in the EA's permit.</p> <p>A new definition of "significant change", section 21563 (d)(6), is needed. We previously suggested, and again suggest, the following:</p> <p><i>"The EA determines that the change itself would have or could have a significant adverse effect on human health or the environment, that will not be reduced to an insignificant level through compliance with applicable requirements of the Public Resources Code or CIWMB regulations; and the EA has identified additional feasible prohibitions, mitigations, conditions or other measures for consideration as permit requirements to reduce those adverse impacts."</i></p>	
21570(a)	15.1-29	<p><u>Ensuring that the regulations are appropriate to all situations</u>. As explained before, because there is not always a land use authority, Section 21570(a) and section 18105.2 subsection (i) should include the underlined phrase: "...agency that oversees land use planning where the facility is located, <u>when there is one</u>."</p>	<p>The intent of this requirement is to provide an avenue for the jurisdiction that has authority over land use to be aware of a proposed new facility or changes proposed at an existing facility within its jurisdiction. In most cases, this is at the local government level. Where land use oversight rests with another jurisdiction,</p>

Section #	Commenter #	Comment	Response
		Similarly, in section 21570 subsection f(5)A, section 21685, subsection b(4), and section 18105.1, subsection g(1), the words “ <u>or applicable planning document, where there is one</u> ” should be added.	such as the federal government, the intent is that the application form be sent to the appropriate federal agency. The local government or federal agency could then take action, if it so chooses, if a facility proposed to operate as described in the solid waste facilities permit application would be inconsistent with local land use entitlements or other land use regulations. Comments related to conformance finding information are outside the scope of these regulations, as the regulations do not address conformance findings.
21570(b)	15.1-29	Please see commenter 15.1-29 comments regarding Section 21563(d)(4).	Please see response to commenter 15.1-29 regarding Section 21563(d)(4).
21570(f)(5)(A)	15.1-29	Please see commenter 15.1-29 comments regarding Section 21570(a).	Please see response to commenter 15.1-29 regarding Section 21570(a).
21570(f)(9)	15.1-25	We also support the staff recommendation to limit the relationship between the solid waste facility permit and the conditional use permit (CUP). Regardless of any terms and conditions imposed in the solid waste facility permit, the requirements imposed by the CUP are still binding and local agencies are charged with enforcement of those provisions.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21570(f)(9)	15.1-05	The EAC supports all recommendations by Board staff contained in the <i>Draft Response to Comments Received During 60-Day Comment Period</i> pertaining to the relationship of the Solid Waste Facilities Permit to Land Use Entitlements. The Council believes that this approach reinforces the bridge between the Solid Waste Facilities Permit and local planning practices while reducing conflicts between the two processes.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21570(f)(9)	15.1-04	The LEA supports removing the Land Use and Conditional Use Permits as requirements for a complete and correct solid waste facility permit application. Additionally, the LEA supports the approach taken in §21650(i) that it takes into consideration PRC §44012, which requires the EA to ensure that primary consideration is given to protecting public health and safety and preventing environmental damage, and the long term protection of the environment. The EA should be aware of and take into consideration other permits and approvals when writing terms and conditions. This approach acknowledges the land use permits but does not put an LEA in the undesirable position of enforcing local land use permit conditions through the solid waste facility permit.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21570(f)(9)	15.1-28	With this in mind, we support the following elements of the proposed regulations: <ul style="list-style-type: none"> ○ The requirement in the draft regulations that maintains a separation between the solid waste facility permit process and the local land use entitlement process, such as conditional use permits (CUPS). As operators, we must adhere to the most restrictive requirements imposed on the operations by our various permits. Moreover, the local land use authority always has the ability to enforce CUP conditions. 	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.

Section #	Commenter #	Comment	Response
21570(f)(9)	15.1-22 15.1-24	<p>The Task Force strongly recommends that the proposed regulations avoid promoting/creating any conflict between the host jurisdiction's land use permit/entitlement and the State's Solid Waste Facility Permit (SWFP).</p> <p>As currently written, the proposed regulations would allow a SWFP be issued to a solid waste facility even though the SWFP may be in direct conflict with the design/operational parameters (e.g., hours of operation, daily capacity, type of waste accepted, etc.) established by the host jurisdiction through the land use permit process. More distressing, the proposed regulations would delete existing regulations which require facility applicant/operators to provide a copy of the land use permit/entitlement when applying for a SWFP. Instead, the proposal would allow the issuance of a SWFP (once the enforcement agency [EA] accepts the application as "Complete") even in situations where the facility has not yet been issued a new or revised local land use permit/entitlement. Such a conflict is contrary to Public Resources Code Section 40053 which is designed to ensure that the California Integrated Waste Management Board (CIWMB) does not adopt any regulations which may limit or weaken local government authority to impose a more restrictive standard on solid waste facilities within their jurisdiction.</p> <p>Due to the proposed regulations' far-reaching public policy consequences, we strongly request the CIWMB address this issue prior to the final adoption of the proposed regulations. We believe that if this issue is not addressed, it would give the perception that State government has abdicated its fiduciary responsibility to protect public health, safety, and the environment by not collaborating with local governments on one of its most important functions-- permit consistency; create public confusion and a legal dilemma as to which permit governs; and, weaken the host jurisdiction's land use authority. Furthermore, we believe the proposed regulations impact will fall disproportionately on poor and disenfranchised communities because they lack the necessary resources to defend their interests. Ultimately, the proposed regulations would undermine the intent of AB 1497 which is to improve the "conditions for communities with solid waste facilities located in their neighborhoods and ensure adequate consideration is given to environmental justice issues" [Assembly Bill 1497, Montanez, 2003].</p>	<p>Based on the comments received during the 60-day comment period that the proposed regulations must avoid promoting/creating any conflict between the local jurisdiction's land use permit/entitlement and the SWFP process, staff changed the proposed regulations to remove land use from EA decisions on acceptance of a complete and correct permit application package to the EA considering land use entitlements when drafting permit terms and conditions, which is when the EA considers the content of other entitlements, permits, and approvals when processing a SWFP. The Note in Section 21650(i) is amended to clarify that when writing permit conditions the EA should be aware of and take into consideration other permits, entitlements and approvals, such as Air Pollution Control District/Air Quality Management District permits to construct and operate, Department of Fish and Game permits, and Coastal Commission approvals. Further clarification is provided that when writing permit conditions the EA should take into consideration PRC Section 44012, which requires the EA to ensure that primary consideration is given to protecting public health and safety and preventing environmental damage, and the long-term protection of the environment. This approach acknowledges that the EA should be aware of and take into consideration other permits and approvals when writing permit terms and conditions, but does not put the EA in the position of enforcing local land use permit conditions by not processing a solid waste facilities permit application. Nothing in the proposed regulations will prevent or hinder a local jurisdiction from carrying out their responsibility relative to enforcing local land use requirements. Operators are still bound to comply with local land use permit conditions, which are enforced by local agencies that are charged with the responsibility.</p> <p>Consistent with this approach, the existing requirement in Section 21570(f)(9), that the operator include as part of a complete and correct application package a copy of land use entitlements for the facility, was deleted. State law has not mandated that the EA be an agency required to verify if the information in the land use approval is correct or if the facility has the approval of the local government to operate as proposed under a solid waste facilities permit. The appropriate agency for making local land use determinations is the local government having jurisdiction, in most cases, the city or county in which the facility is located. The proposed language in Section 21563(d)(2), that the definition of "correct" did not include the EA verifying for correctness information contained in the land use and/or CUP, was deleted for the same reason.</p> <p>The proposed regulations also allow for an increase in the opportunity for communication by requiring the operator to submit a copy of the SWFP application to the local planning agency when the application is submitted to the EA for consideration. By doing so the local land use authority will have knowledge of the proposed changes and can act on those aspects that our within their jurisdiction.</p>
21570(f)(9)	15.1-22 15.1-24	<i>Specific Request</i> – Do not delete and instead revise to indicate "Land Use and/or entitlements for the facility (e.g., Conditional Use Permits or zoning ordinance).	Please see response to commenters 15.1-22 and 15.1-24 regarding Section 21570(f)(9). Nothing in these regulations will prevent or hinder a local

Section #	Commenter #	Comment	Response
		<p>The EA is not responsible to verify the correctness of information contained in the land use permit and/or conditional use permit submitted by the applicant and/or the facility operator;" OR substitute the deleted text with the following: "a written confirmation by the host jurisdiction's planning agency or commission verifying that the proposed SWFP activities are consistent with the land use entitlements for the facility;"</p> <p><u>Discussion</u> – Pursuant to Section 44012 of the Public Resources Code, the primary purpose of the SWFP is to ensure the protection of public health and safety and the environment. If the proposed regulations are adopted in their current form, we believe solid waste facilities will be issued a SWFP that may be inconsistent with facility's design/operational parameters established by the host jurisdiction via the land use permit/entitlement. The criteria are often significantly more restrictive than the mitigation measures identified in the CEQA document. Since the land use permit is the primary vehicle for establishing the parameters for the "operation" of a solid waste facility, we do not believe it is possible for the EA/CIWMB to determine if a SWFP application is complete without ensuring consistency with the local land use permit. In addition, the proposed regulations would undermine local governments' land use authority since it would create a legal quandary as to which permit conditions govern. Such a conflict is contrary to Public Resources Code Section 40053 which is designed to ensure that the CIWMB does not adopt any regulations which may limit or weaken local government authority to impose a more restrictive standard on solid waste facilities within their jurisdiction.</p> <p>The intent of Assembly Bill 1497 (Montanez, 2003) is to improve the "conditions for communities with solid waste facilities located in their neighborhoods and ensure adequate consideration is given to environmental justice issues." If the proposed text is adopted, it would also undermine the intent of AB 1497 since it would prohibit the CIWMB-approved local enforcement agencies from verifying if the applicant (or the facility operator) has the approval of the host jurisdiction. This is critical since local land use conditions are often the mechanism by which jurisdictions address environmental justice concerns and other issues raised by the community.</p> <p>Our proposal would ensure consistency without imposing/recommending any additional duties to the CIWMB and/or EAs.</p>	<p>jurisdiction from carrying out their responsibility relative to enforcing local land use requirements.</p>
21570(f)(9)	15.1-03	<p>The requirement, currently in Title 27 of the California Code of Regulations, for a land and/or conditional use permit as part of a complete and correct permit application package has been deleted in its entirety. The SWMP believes that this may unnecessarily lead to conflicts between permits or other approvals, which have been issued by different regulatory agencies, regarding the same solid waste issues, e.g., hours for the receipt of waste. The land and/or conditional use permit is usually the first discretionary approval for a solid waste facility and is normally the result of compliance with the CEQA. If, due to local considerations, the land and/or conditional use permit has more restrictive hours for the receipt of waste than the CEQA document cited in the permit application</p>	<p>Please see response to commenters 15.1-22 And 15.1-24 regarding Section 21570(f)(9).</p>

Section #	Commenter #	Comment	Response
		package, the SWMP feels that the solid waste facility permit should not be used to circumvent the land and/or conditional use permit regarding solid waste issues, which are within the purview of the LEA. If anything, the stricter condition would better protect public health and safety, prevent environmental damage, and help ensure long-term protection of the environment. The SWMP respectfully requests that the requirement for a land and/or conditional use permit as part of a complete and correct permit application package be unchanged.	
21570(f)(11)	15.1-03	The word, “public,” should be inserted before “meeting” to clarify that the meetings held applicable to the proposed solid waste facilities permit are public meetings.	Sections 21570(f)(11), 18104.1(h), and 18105.1(j) were edited to clarify that the meetings to be listed are those that were “open to the public,” so the requirement now reads: “List of all public hearings and <u>other</u> meetings <u>open to the public that have been</u> held or <u>copies of</u> notices distributed that are applicable to the proposed solid waste facilities permit action.”
21620(a)(1)(D)	15.1-02	However, when determining consistency with the RFI, the EA should only look at the <u>required elements</u> of the RFI as stipulated in Section 21600 of the Public Resources Code. Often times, the operator voluntarily includes additional information in the RFI beyond what is required to make the document more descriptive of the facility. The latest version of Section 21620(a)(1)(D) deletes the reference to Section 21600 of the Public Resources Code. This would unintentionally encourage operators to only include information that is minimally required in Section 21600 of the Public Resources Code. We would therefore request that Section 21620(a)(1)(D) be amended to read: “(D) the change does not conflict with the design and operation of the facility as provided-described in the current RFI <u>and pursuant to Section 21600.</u> ”	Section 21620(a)(1)(D) was edited to clarify that the EA should only look at the required elements of the RFI pursuant to Section 21600, 14 CCR Sections 17346.5, 17863.4, 18221.6, 18223.5, or 18227. The 14 CCR sections were added to reference the required RFI elements for other solid waste facilities types that should be included, such as compost facility, large volume transfer/processing facility, and large volume construction, demolition, inert debris processing facility.
21620(a)(1)(D)	15.1-28	With this in mind, we support the following elements of the proposed regulations: <ul style="list-style-type: none"> The “minor change “ lists as defined in Option B (Section 21620(a)) of the staff report and with the following additional language: “(D) the change does not conflict with the design and operation of the facility as described in the current RFI pursuant to Section 21600. 	Section 21620(a)(1)(D) was edited to clarify that the EA should only look at the required elements of the RFI pursuant to Section 21600, 14 CCR Sections 17346.5, 17863.4, 18221.6, 18223.5, or 18227. The 14 CCR sections were added to reference the required RFI elements for other solid waste facilities types that should be included, such as compost facility, large volume transfer/processing facility, and large volume construction, demolition, inert debris processing facility.
21620(a)(1)(D)	15.1-27	With this in mind, we support the following elements if the proposed regulations: <ul style="list-style-type: none"> While we would prefer that LEAs have appropriate discretion, and therefore we would prefer there not be any lists at all. If there must be a minor change list, we propose the following. The “minor change” lists as defined in Option B (Section 21620(a)) of the staff report and the following additional language: “(D) the change does not conflict with the design and operation of the facility as described in the current RFI pursuant to Section 21600. 	Please see response to commenter 15.1-29 regarding the minor change list in Section 21620(a)(1)(E). Section 21620(a)(1)(D) was edited to clarify that the EA should only look at the required elements of the RFI pursuant to Section 21600, 14 CCR Sections 17346.5, 17863.4, 18221.6, 18223.5, or 18227. The 14 CCR sections were added to reference the required RFI elements for other solid waste facilities types that should be included, such as compost facility, large volume transfer/processing facility, and large volume construction, demolition, inert debris processing facility.
21620(a)(1)(E)	15.1-02	We appreciate the latest proposed regulatory language which gives discretionary authority to enforcement agencies (EAs) for determining what constitutes a minor	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.

Section #	Commenter #	Comment	Response
		change beyond those listed in Section 21620(a)(1)(E). We believe that the operator should be able to implement insignificant changes as minor changes so long as they are consistent with the State minimum standards, the existing solid waste facility permit, and the Report of Facility Information (RFI).	
21620(a)(1)(E)	15.1-28	<p>With this in mind, we support the following elements of the proposed regulations:</p> <ul style="list-style-type: none"> ○ The “minor change “ lists as defined in Option B (Section 21620(a)) of the staff report and with the following additional language: (E) Minor changes include, but are not limited to, the following:” <p>With reference to this Option B list, we are convinced that it will allow for an expedited processing of minor changes that occur during the normal course of operations and that should not require extra work and effort on the part of the LEA. We note that the items in this list were agreed upon by a broad spectrum of stakeholders during your workshops and have been modified and edited by Board staff to accommodate their concerns.</p> <p>We also believe that this “minor change” list should not be considered all inclusive, and that it should provide some flexibility on the part of the LEA to either add to this list or reject items on the list as they feel necessary to protect the public health and the environment.</p>	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21620(a)(1)(E)	15.1-27	<p>With this in mind, we support the following elements if the proposed regulations:</p> <ul style="list-style-type: none"> ○ While we would prefer that LEAs have appropriate discretion, and therefore we would prefer there not be any lists at all. If there must be a minor change list, we propose the following. The “minor change” lists as defined in Option B (Section 21620(a)) of the staff report and the following additional language: (E) Minor changes include, but are not limited to, the following:” <p>With reference to this Option B list, we are convinced that it will allow for an expedited processing of minor changes that occur during the normal course of operations and that should not require extra work and effort on the part of the LEA. We note that the items in this list were agreed upon by a broad spectrum of stakeholders during your workshops and have been modified and edited by Board staff to accommodate their concerns.</p> <p>We also believe that this “minor change” list should not be considered at all exclusive, and that it should provide some flexibility on the part of the LEA to either add to this list or reject items on the list as they feel necessary to protect the public health and the environment.</p>	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations. Please see response to commenter 15.1-29 regarding the minor change list in Section 21620(a)(1)(E).
21620(a)(1)(E)	15.1-04	In addition, the LEA can support the processing of Minor Changes as proposed in §21620(a)(1) (previously referred to as Alternative Minor Lists 1 and 2). The Minor Change List approach provides an easy and clearly defined mechanism for	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.

Section #	Commenter #	Comment	Response
		the operator to make certain updates without the burden of filling out the solid wastes facilities permit application form.	
21620(a)(1)(E)	15.1-25	The ESJPA has been an active participant throughout the lengthy process and we are satisfied with the decision to proceed with the minor change and the significant change lists.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21620(a)(1)(E)	15.1-29	<u>Providing discretion to EAs.</u> Having read the transcript from the June 5 public hearing on these regulations, I agree with several of speakers. Quoting Mr. White's comments: "our first preference would be to leave [the lists] out all together and allow the decision tree process to proceed." As a workshop participant, I know that a great effort went into providing a reasonable list, but that was our task, and no other option was provided to us. I would not at all believe that my time and effort was wasted if a superior approach were to be selected. In the packet we are reviewing this time around, I would prefer to delete the list that begins on page 6, line 35. Although the minor changes are "not limited to" this list, page 9 line 5 states that "All other changes require a revised permit..." so the concern is that even something very minor, that for some reason we didn't think of, could require a permit revision. The list beginning on page 9, line 14 was not the charge of the workshop to develop, thought it did come out of the workshop. It completely removes discretion from the LEAs and should be deleted.	The Board considered comments received during the 60-day and 15-day comment periods, and Board staff's analysis in making its decision at its October 17, 2006 meeting to approve retaining the minor change list. The intent of the minor change list is to allow operators to make minor changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator explaining why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training.
21620(a)(1)(E)	15.1-05	Regarding the Minor Change List, the position of the EAC remains unchanged from that which is outlined in Resolution 2006-02 adopted on April 19, 2006. <i>Comment provided in Resolution 2006-02 - Not support the Alternative 1 Minor Change, Alternative 2 Optional Minor Change or Alternative 3 Significant Change lists as criteria that must be met to implement a change or revise a permit without LEA/EA review or approval [Title 14, Section 21620(a)(1)(4)].</i> The proposed lists attempt to identify items that would be considered non-significant or significant but would be problematic in keeping the review and approval a discretionary action. The proposed items in the list could be construed as significant or non-significant depending on the type of operation or facility, existing language in a facility's supporting documentation, or an urban vs. rural environment, etc. If the lists were "all-inclusive", any and all proposed non-significant change items would have to be consistent throughout the state with no question of discretion. This does not appear to be possible. Another problematic aspect to the lists is that they can not be all-inclusive in which there will always be another item that should/could be on the list but is not. Each proposed change must be treated on its own merit and the LEA would most likely be challenged as to why a particular proposed change would not be considered the same as the "approved list". Thus, any approved list can not be all-inclusive. The initial working group, in reviewing <i>significant change</i> , examined the current	Please see response to commenter 15.1-29 regarding Section 21620(a)(1)(E).

Section #	Commenter #	Comment	Response
		<p>permitting structure, a previous 1986 report on Significant Change by a CIWMB Advisory Committee, as well as other available materials to determine that <i>lists</i> would not serve stakeholders in addressing the limitless variety of circumstances that could constitute changes at solid waste facilities.</p>	
21620(a)(1)(E)	15.1-21	<p>In our prior comments we complained that this proposal effectively divests LEAs of authority over "minor" changes to permitted facilities, because these changes can be implemented "without LEA review and approval" if specified criteria are met. The proposal provides no opportunity for the LEA to satisfy itself that those criteria are in fact met before a change is implemented. Instead the applicant will make those decisions, telling the LEA later, and the burden will be on LEAs to detect and to take enforcement action to reverse changes asserted to be "minor" that are not appropriate for the facility without further LEA review.</p> <p>Simplifying the permitting process for changes that truly do not need EA review is a reasonable policy objective. However, when the simplifying mechanism used is <u>post-change</u> reporting by the operator, and the burden to justify an objection is placed on the EA, it is crucial that the effectively exempted changes be carefully defined. We have five suggestions for further revisions to insignificant change listing provisions in the revised text, to achieve a clear understanding of these provisions.</p> <p>First, there are two potentially inconsistent tests for a minor change in these regulations. Section 21620(a)(1)(A) through (D) is a set of four conditions that must all be satisfied for a change to be minor. But 21620(a)(1)(E) states absolutely that "minor changes include" a list of 23 changes. If a change on that list failed to meet a condition set out in (A) through (D), confusion (and disputes) would arise as to whether the change was "minor."</p> <p>Second, minor change status is "not limited to" the changes listed in subsection (a)(1)(E). It would be far more workable and less dangerous to craft this list with care, and to make being on this list a fifth condition (in addition to conditions (A) through (D)) for minor change status.</p> <p>Third, to the extent conditions (A) through (D) actually define what qualifies as a minor change, those conditions are far too generous. Essentially, they boil down to a change not being expressly or effectively prohibited at the time it is made. Many changes that an EA might classify as significant and require be mitigated, if LEA review was allowed, could instead be implemented by an operator without prior notice or approval under this "not prohibited" test.</p> <p>To fix all three of these problems, the introduction to subsection (a)(1)(E) should read: "Minor changes include only the following changes, and only where those changes also meet the requirements set out in (A) through (D) above: ..."</p> <p>Even with these changes, the LEA remains opposed to the inclusion of a minor change list in this rulemaking. Placing lists in regulation does not allow for flexibility in decision making. The minor changes should be discussed in an LEA</p>	<p>Please see response to commenter 15.1-29 regarding Section 21620(a)(1)(E). To clarify that listed minor changes must also meet the criteria specified in Section 21620(a)(1), Section 21620(a)(1)(E) was edited by adding at the beginning of the sentence "Provided that they satisfy the criteria set forth in subdivisions (a)(1)(A – D)."</p>

Section #	Commenter #	Comment	Response
		Advisory for use by the LEA and operator as examples of minor changes. This would allow the LEA to use discretion in accepting such changes with noticing from the operator in a manner similar to section 21620 (a) (1) (E).	
21620(a)(1) (E)	15.1-21	<p>Fourth, the minor changes list itself needs revision. Items (iii), (xix) and (xxi) should be treated as minor only if notice is provided to the LEA 10 day before the change is made. It is critical that the LEA have current information on facility contacts at all times, and important that it is known in advance that a operator (whatever his professed intentions) has acquired additional property adjacent to a facility. It is also crucial that the EA be notified in advance, not after the fact when an external permit that is identified in the LEA <u>permit</u> as a conditioning document is amended. Revising (xxii) to make this change would also make that provision redundant, so it should instead be deleted. As to these items, the LEA does not need to be able to disapprove changes (if the conditions in (A) though (D) are also satisfied), but it does need to know about these changes in advance.</p> <p>In addition, item (xviii) should qualify as minor only if records are relocated within the disposal facility. Unless this is clarified operators will attempt to move these records to remote locations, impeding inspections. Similarly, item (xii) concerning temporary containers should be clarified to ensure that operators cannot invoke it as authority to relocate containers.</p>	<p>Requiring the operator to notice the EA 10 days before the change is made for iii, xix, xxi, and xxii is not consistent with the intent of the minor change list, which is to allow operators to make minor changes without EA review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). Changes iii, xix, xxi, and xxii were identified during the informal rulemaking process as acceptable changes for the minor change list. These changes, whether listed or not, are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator as documented in an inspection report or other documentation as to why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training.</p> <p>Limiting the change in location of records to within the disposal facility is not consistent with what was discussed during the informal rulemaking process, which was to allow operators to relocate records off site as well. Records can be located at different locations under current requirements.</p>
21620(a)(1) (E)(x)&(xi)	15.1-03 15.1-04 15.1-21	These two sections are duplicative. Delete (xi) and re-letter (xii)-(xxiii) accordingly.	Section 21620(a)(1)(E)(x) and (xi) was edited by deleting (xi) and re-numbering (xii) through (xxiii) accordingly.
21620(a)(1) (E)(xii)	15.1-21	In section 21620(a)(1)(E)(xii) there needs to be a statement added “without a change in location” to clarify when a change in containers used for temporary storage of materials separated for recycling is only a minor change. Also the term temporary storage needs to be defined.	The minor change as written only allows a change to the container itself and not a change in location of the container.
21620(a)(1) (E)(xvi)	15.1-03	The phrase, “and/or adjacent improved properties,” was inserted. It is unclear what effect(s) is(are) intended to be prevented: physical, aesthetics, and/or financial. If adjacent improved properties are being protected, the argument could also be made that adjacent unimproved properties should be protected from changes to on-site traffic patterns. This phrase should be removed or rephrased to clarify how the inclusion of this phrase will protect public health and safety and prevent environmental damage.	Section 21520(a)(1)(E)(xvi) was edited by deleting “improved” from the phrase “and/or adjacent improve properties.”
21620(a)(1) (F)	15.1-21	Fifth, the LEA requests the this entire section be modified as to require the operator to submit to the LEA, for determination, a minor change 30 days prior to the implementation. Without this modification to this section the LEA is placed	Requiring the operator to submit to the EA for determination a minor change 30 days prior to implementation is not consistent with the intent of having a minor change category, which is to allow operators to make minor changes without EA

Section #	Commenter #	Comment	Response
		in the position to conduct an enforcement action after the fact to correct a change that the LEA deems is not minor. This adds an unnecessary burden on the LEA that could have been avoided all together.	review, approval or prior notice that include, but are not limited to, those listed and that meet criteria specified in Section 21620(a)(1). These changes are supposed to be so minor that EA review and approval is not needed prior to the operator making the change. The operator is required to notify the EA of the change within 30 days of making the change. If the EA finds the change does not meet the criteria, the EA is required to provide a written finding to the operator as documented in an inspection report or other documentation as to why the change did not qualify as a minor change and to require the operator to comply with all applicable requirements. This could include the EA using the decision tree in Section 21665 to determine that the change requires an amendment to the RFI, a modified permit, or a revised permit. The idea of operators giving EAs a heads-up about potential upcoming changes is good and will be promoted in planned EA guidance and training.
21620(a)(1)(F)(iv)	15.1-21	A final technical concern is subparagraph (F)(iv) this section presumes that permit reviews will occur only on five year intervals. The EA has authority to require such reviews as it deems necessary.	Section 21620(a)(1)(F)(iv) was edited by deleting “5-year” from the phrase “regular 5-year permit review.”
21620(a)(3)	15.1-28 15.1-27	With this in mind, we support the following elements of the proposed regulations: <ul style="list-style-type: none"> o The new method to change activities at a solid waste facility by means of a “modified permit” to allow modifications to a permit for changes that are less than significant; 	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21620(a)(4)	15.1-25	The ESJPA has been an active participant throughout the lengthy process and we are satisfied with the decision to proceed with the minor change and the significant change lists.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21620(a)(4)	15.1-22 15.1-24	<u>Specific Request</u> —Expand the Subsection to read as follows: “(E) Increase in the facility’s permitted site life and/or closure date.” <u>Discussion</u> —The above change will help address our concern expressed in item 2 above due to its potential significant impact on the community and the environment.	The main issue is not the closure date itself, but a proposed change at a facility that could cause the closure date to change, such as a change in the fill rate. It is this proposed change at the facility that could trigger a permit revision based on the decision tree. Very few permits have definitive closure dates and most permits have estimated closure dates, which are based on a multitude of parameters, such as the fill rate, capacity, and waste density. A proposed change to any one of these parameters could result in a change to the estimated closure date.
21620(a)(4)	15.1-04	The LEA continues to adamantly oppose §21620(a)(4)(A)-(D), (previously referred to as Alternative 3 Significant Change List). This approach attempts to implement a one-size-fits-all approach state wide and it disregards local issues (or lack thereof).	The Board considered comments received during the 60-day and 15-day comment periods, and Board staff’s analysis in making its decision at its October 17, 2006 meeting to approve retaining the significant change list. The intent of the list is to identify a list of changes in the design or operation of a solid waste facility that would always be considered significant and always require a permit revision. For all other changes in the design or operation of a facility proposed by the operator that do not qualify as a minor change, the EA will use the decision tree in Section 21665 to determine if the proposed change can be approved through an RFI amendment, modified permit, or revised permit.
21620(a)(4)	15.1-29	<u>Providing discretion to EAs.</u> Having read the transcript from the June 5 public	Please see response to commenter 15.1-04 regarding Section 21620(a)(4).

Section #	Commenter #	Comment	Response
		hearing on these regulations, I agree with several of speakers. Quoting Mr. White's comments: "our first preference would be to leave [the lists] out all together and allow the decision tree process to proceed." As a workshop participant, I know that a great effort went into providing a reasonable list, but that was our task, and no other option was provided to us. I would not at all believe that my time and effort was wasted if a superior approach were to be selected. In the packet we are reviewing this time around, I would prefer to delete the list that begins on page 6, line 35. Although the minor changes are "not limited to" this list, page 9 line 5 states that "All other changes require a revised permit..." so the concern is that even something very minor, that for some reason we didn't think of, could require a permit revision. The list beginning on page 9, line 14 was not the charge of the workshop to develop, thought it did come out of the workshop. It completely removes discretion from the LEAs and should be deleted.	Development of a significant change list was one of the charges of the workshop. The Board's Permitting and Enforcement Committee directed staff at its November 7, 2005 meeting to work with stakeholders in the development of two lists that could be inserted into the regulations prior to beginning the 60-day comment period: first, a list of minor changes that would not require EA review and approval prior to the operator taking action, and, second, a list of changes that would always require a revision to the permit. The four significant changes listed in Section 21620(a)(4) were identified through the workshop process held in November 2005.
21620(a)(4)	15.1-05	The EAC opposes the inclusion of a Significant Change List. Such a list would prohibit site-specific considerations and undermine the discretion of enforcement agencies to determine when a change in the design or operation of a facility warrants a revision to the operating permit. Instead of a list, the EAC fully supports the use of the "Decision Tree," which the Council believes is the best vehicle for evaluating the significance of a change while preserving local discretion.	Please see response to commenter 15.1-04 regarding Section 21620(a)(4).
21650(e)&(g)	15.1-23	The regulations fail to make it clear that informational meetings for revised or new permits must occur prior to submission of the application to the Board - For revised and new permits, the EA is obligated to hold an informational meeting within 60 days of receipt of the application by the EA. Also within 60 days, the EA must submit the application to the Board. These two provisions could be read jointly so that the EA could first submit the application to the Board and then subsequently hold an informational meeting, all within the 60-day time period. The regulations should clarify that any informational meetings must take place prior to an application's submission to the Board.	This clarification can be found in Section 21650(g) which states: "No later than 60 days after the application package has been accepted as complete and correct and after conducting an informational meeting if required by Sections 21660.2 and 21660.3, the EA shall mail to the CIWMB the following: (1) A copy of the proposed solid waste facilities permit; (2) The accepted application package; ..."
21650(e)(g)(7)	15.1-29	Please see commenter 15.1-29 comments regarding Section 21563(d)(4).	Please see response to commenter 15.1-29 regarding Section 21563(d)(4).
21650(i) Note	15.1-25	We also support the staff recommendation to limit the relationship between the solid waste facility permit and the conditional use permit (CUP). Regardless of any terms and conditions imposed in the solid waste facility permit, the requirements imposed by the CUP are still binding and local agencies are charged with enforcement of those provisions.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21650(i) Note	15.1-05	The EAC supports all recommendations by Board staff contained in the <i>Draft Response to Comments Received During 60-Day Comment Period</i> pertaining to the relationship of the Solid Waste Facilities Permit to Land Use Entitlements. The Council believes that this approach reinforces the bridge between the Solid Waste Facilities Permit and local planning practices while reducing conflicts between the two processes.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.

Section #	Commenter #	Comment	Response
21650(i) Note	15.1-04	The LEA supports removing the Land Use and Conditional Use Permits as requirements for a complete and correct solid waste facility permit application. Additionally, the LEA supports the approach taken in §21650(i) that it takes into consideration PRC §44012, which requires the EA to ensure that primary consideration is given to protecting public health and safety and preventing environmental damage, and the long term protection of the environment. The EA should be aware of and take into consideration other permits and approvals when writing terms and conditions. This approach acknowledges the land use permits but does not put an LEA in the undesirable position of enforcing local land use permit conditions through the solid waste facility permit.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21650(i) Note	15.1-28	With this in mind, we support the following elements of the proposed regulations: <ul style="list-style-type: none"> ○ The requirement in the draft regulations that maintains a separation between the solid waste facility permit process and the local land use entitlement process, such as conditional use permits (CUPS). As operators, we must adhere to the most restrictive requirements imposed on the operations by our various permits. Moreover, the local land use authority always has the ability to enforce CUP conditions. 	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21650(i) Note	15.1-22 15.1-24	<u><i>Specific Request</i></u> –Expand the Subsection to read as follows: “. . . The Enforcement Agency should be aware of and take into consideration other permits/ entitlements (e.g., Conditional Use Permit or Zoning ordinance) and approvals when writing terms and conditions].” <u><i>Discussion</i></u> –The above change will help address our concern expressed in item 2 above due to its potential significant impact on the community and the environment.	The “Note” in Section 21650(i) was edited by adding “entitlements” to the list of actions that the EA should take into consideration and by adding a list of examples “(e.g., conditional use permit, zoning, Air Pollution Control District/Air Quality Management District permits to construct and operate, Department of Toxic Substances Control hazardous waste facility permit, Department of Fish and Game permits, Coastal Commission approvals, Army Corps of Engineers permit, Federal Aviation Administration notification, and other required local and county ordinances/permits).”
21660	15.1-21	We remain concerned that this rulemaking will impose new mandatory duties on LEAs; because every mandatory duty increases the risk the EA will be exposed to litigation seeking damages allegedly caused by an LEA's failure to perform that mandatory duty. The revised text is somewhat improved in this regard, some requirements are moved from a pre-decision to a post-decision trigger, and other requirements are simplified or clarified (e.g., the clarification that meeting requirements are triggered only if the EA <u>determines</u> that an application is for a "revised" permit. (21660.2.). This rulemaking is still fundamentally a CIWMB decision to impose requirements on EAs, on a mandatory basis, that are not required or authorized by statute.	The proposed regulations are trying to balance the need to provide opportunity for the public to be better informed of new facilities and changes at existing facilities proposed by operators with the level of additional noticing needed to be provided by EAs. Providing opportunities for the public to be better informed is one of the key elements in addressing environmental justice and consistent with the intent of AB1497, and adheres with Cal-EPA's Intra-Agency Environmental Justice Strategy's goals: 1) ensure meaningful public participation and promote community capacity-building to allow communities to effectively participate in environmental decision-making processes, and 2) Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.
21660(a)(2)	15.1-04	Strongly suggest deleting second half of sentence that read, “ <i>and within 5 days from the EA receiving the application for new, revised, and modified permits, the EA shall mail written notice of an application to every person who has submitted a written request for such notice.</i> ” or modifying as follows, “ <i>and within 5 days from the EA accepting for filing the application for new, revised, and modified</i>	The existing regulation for Section 21660(a)(2) requires the EA to mail written notice of an application to every person who has submitted a written request for such notice. It does not allow the EA to mail notices for only accepted applications. The proposed regulations do not change that a notice is required but now specify that the notice should be mailed within 5 days of the EA receiving

Section #	Commenter #	Comment	Response
		<i>permits, the EA shall mail written notice of an application to every person who has submitted a written request for such notice.” An EA cannot anticipate the actual submittal date of an application package and the modified language does not cause additional noticing for application packages that are rejected for filing.</i>	the application.
21660(a)(2)	15.1-21	In section 21660 item (a)(2) has been added. This requirement to send within 5 days of receipt a written notice of receipt of an application for new, revised and modified permit to every person who has submitted a written request for such notice is inappropriate. This timeline prohibits the LEA from even reviewing the application prior to noticing interested parties. This adds another burden to the LEA to notice these interested parties upon receipt of the application, again when the application is deemed complete and correct, and then again when a public hearing or meeting is to be held. The LEA strongly requests that Item (a)(2) be deleted from this section.	Please see response to commenter 15.1-04 regarding Section 21660(a)(2).
21660(a)(2)	15.1-23	The RFI Amendment regulations fail to meet the public hearing requirements of AB 1497 – AB 1497 requires that “ <u>before making its determination</u> ... the enforcement agency shall submit the proposed determination to the board for comment and hold at least one public hearing on the proposed determination.” However, under the proposed changes, CIWMB allows the EA to make a final determination on RFI amendments without providing for any public hearing or even notice of the proposed change. The only notice required will occur after the EA has already approved the RFI amendment. Notice given after the fact serves little purpose in facilitating public comment or community influence on the proposed changes. Because the EA has considerable discretion in determining whether or not an application will be classified as a RFI amendment, it is difficult to foresee the types of projects that will escape pre-determination notice.	Informational meetings are only required for permit revisions. RFI amendments do not change the permit. The version of the proposed regulations noticed during the 60-day comment period indicated the notice for the RFI amendment was to be a pre-notice that would take place before the EA took action, similar to the pre-notice for modified, revised, and new permits. However, comments received during the comment period raised concern about the existing short, 30-day process time for RFI amendments (including acceptance/rejection and approval/denial of the application) and the difficulty associated with pre-noticing by the EA. Based on these comments, Board staff determined that the appropriate time for the EA to send the written notice pursuant to Section 21660(a)(2) or post the notice pursuant to Section 21660.1 was after the EA had accepted/approved the application. This will reduce the need for the EA to notice applications that are determined to be incomplete or incorrect and are rejected, or where the EA determined that findings could not be made and the application was denied. In the case of posting the notice, the EA would be required to post the notice for at least 10 days, which provides the public with the same number of days of noticing as what was proposed earlier. Currently, the EA is not obligated to notice RFI amendments, except under the general requirement of mailing a written notice of an application to every person who has submitted a written request for such notice.
21660.1	15.1-21	In the revised text noticing requirements for RFI amendments have been moved to the post-decision period, and have been clarified as to content. Similarly, the revised text clarifies that pre-permitting notice requirements are triggered by acceptance of an application as complete and correct, not by the mere receipt of an application. Those changes are appreciated.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21660.1	15.1-23	Please see commenter 15.1-23 comments regarding Section 21660(a)(2).	Please see response to commenter 15.1-23 regarding Section 21660(a)(2).
21660.1	15.1-21	We noted in our June 2, 2006 comment letter that AB 1497 does not require or authorize the California Integrated Waste Management Board (CIWMB) to impose a requirement for a public meeting before a new facility solid waste	The proposed regulations are trying to balance the need to provide opportunity for the public to be better informed of changes proposed by operators at existing facilities with the level of additional noticing needed to be provided by EAs,

Section #	Commenter #	Comment	Response
		<p>permit is issued; nor does it authorize or require the CIWMB to impose any new noticing requirements. Staff acknowledged that these points were correct in subsequent discussions, but stated that the proposed regulations implemented a Board directive. The requirement for an LEA public meeting for new facility permits is retained in these revisions, but is limited to "full" solid waste permits. Requirements to provide additional notices are actually expanded in this revision.</p> <p>The CIWMB Board should not impose meeting or notice requirements on LEAs except as provided by statute--this is an issue that state law has expressly, and rationally, addressed in a different manner for revisions to permits versus new facility permits. The LEA strongly requests Proposal 2006-34 be revised to eliminate the new, non-statutory, requirement for a public informational meeting for new facility permits and the new, non-statutory noticing requirements for RFI amendments and modified permits.</p> <p>The proposed regulations impose new notice requirements even where a proposed change at a facility can be processed as an RFI amendment or as a permit modification based on an EA determination that the proposed change is not a "significant" change for purposes of PRC 44004(a). (21660.1, 21660.3) Once that determination is made, however, there is no basis in the PRC or in AB 1497 for imposing a notice requirement on EAs. The requirement for this notice by the EA should be dropped.</p>	<p>recognizing there are changes that are not significant changes in design and operation that are consistent with the permit terms and conditions. The new noticing requirements proposed for RFI amendments are less than those for a modified, revised or new permit and consist of the operator posting a notice at the facility entrance <u>and</u> the EA posting the notice on the local jurisdiction's public notice board <u>or</u> EA's web site <u>or</u> Board's web site <u>or</u> the operator's web site. While RFI amendments tend to be administrative in nature, there have been instances where the changes were of greater concern, such as an amendment to an RFI at a landfill that triggered the legislation, AB 1497. The noticing requirements for modified permits are less than those for revised and new permits, and do <u>not</u> include 1) noticing the governing body of the jurisdiction where the facility is located and 2) noticing the State Assembly Member and State Senator in whose district the facility is located.</p> <p>The additional public noticing in Section 21660.1 for RFI amendments and Section 21660.3 for modified permits increases the opportunity for the public to be better informed of changes proposed by operators, which is one of the key elements in addressing environmental justice and consistent with the intent of AB1497, and adheres with Cal-EPA's Intra-Agency Environmental Justice Strategy's goals: 1) ensure meaningful public participation and promote community capacity-building to allow communities to effectively participate in environmental decision-making processes, and 2) Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.</p>
21660.1	15.1-26	<p>Our greatest concern pertains to the additional public posting and hearing requirements proposed in the regulations. While we fully support staff's recommendation to remove the informational meeting requirement for registration and standardized permits, the Southcentral LEA Roundtable believes that the extensive public notification and informational meeting requirements proposed in the regulations are too stringent.</p> <p>For rural LEAs that often consist of a skeleton staff, public notification represents a tremendous amount of time to compose and translate notices, secure purchase orders, and place them in local newspapers. We fear that the proposed noticing and hearing requirements will divert limited resources from the critical task of protecting public health and the environment through inspections and enforcement actions.</p>	<p>Please see response to commenter 15.1-21 regarding Section 21660.1. The regulations set a statewide minimum requirement, in some circumstances EAs may need to invoke their authority to have the applicant to pay for the expense associated with the required notice and other steps designed to ensure public awareness of projects.</p>
21660.1(a) (6)	15.1-21	<p>Moving the notification point for RFI amendments to the post-decision period makes the reference to 21660.1(a)(7) [now (a)(6)] relevant.</p>	<p>Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.</p>
21660.1(a) (7)	15.1-22 15.1-24	<p><u>Specific Request</u>--Do not delete ". . . (date, time, and location) for public review."</p> <p><u>Discussion</u>--By retaining the above text, it will help address the concerns expressed in item 2 since it would provide interested parties with key logistical information. Our request is consistent with similar requirements already</p>	<p>This information is no longer necessary since the RFI amendment will already have been approved by the EA when the notice is posted. The EA will be required to indicate in the notice where additional information about the approved application is available with no date or time limitations.</p>

Section #	Commenter #	Comment	Response
		incorporated in other sections of the proposed regulations, including Sections 21660.3(a)(7) and 21660.3(a)(7).	
21660.1(b)	15.1-23	<p>The Regulations Fail to Require Translation and Actual Notice - AB 1497 authorizes the CIWMB to provide actual personal notice to residents living within a distance other than 300 feet from the facility. Pub. Res. Code § 44004(h). The bill also authorizes the enforcement agency to translate notices. Pub. Res. Code § 44004(h)(1)©. However, the CIWMB regulations fail to require actual notice or translation. 27 CCR § 21660.1(b); 27 CCR 21660.2(c)(3). The proposed regulations omit any mention of actual notice relying on fence-line notices as well as postings to website. However, many residents living in small rural areas hosting solid waste facilities do not have access to the internet. Furthermore, the regulations leave it entirely to the discretion of the enforcement agency to translate notices as an additional measure to encourage public attendance at the informational meeting. Translation should not be considered an additional measure to increase public attendance. Rather, it should be considered a primary source of outreach, especially in communities which are predominantly non-English speaking.</p>	<p>PRC Section 44004 applies to significant changes in the design or operation of a facility proposed by an operator. Section 21660.1 deals with changes proposed by an operator that are not significant changes. The proposed regulations are trying to balance the need to provide opportunity for the public to be better informed of changes proposed by operators at existing facilities with the level of additional noticing needed to be provided by EAs, recognizing there are changes that are not significant changes in design and operation that are consistent with the permit terms and conditions. The new noticing requirements for RFI amendments are less than those for a modified, revised or new permit and consist of the operator posting a notice at the facility entrance <u>and</u> the EA posting the notice on the local jurisdiction's public notice board <u>or</u> EA's web site <u>or</u> Board's web site <u>or</u> the operator's web site. Currently, the EA is not obligated to notice RFI amendments, except under the general requirement of mailing a written notice of an application to every person who has submitted a written request for such notice.</p> <p>The proposed regulations originally combined the noticing requirements for RFI amendments and modified permits together in Section 21660.1, but because of the processing differences between the two and that modified permits are processed similar to new and revised permits, modified permits were removed from this section and added to Section 21660.3 "Notice for New and Revised Permit Applications." The proposed regulations require that for new and revised permits the EA post the notice in the manner set forth in Government Code Section 65091, which requires the EA to notice 1) the owner of the subject property; 2) each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project; 3) the owners of property within 300 feet of the subject property or post a notice in a newspaper of general circulation if there are more than 1,000 owners of property within 300 feet of the subject property, and 4) either post the notice in three public locations (at least one of which must be directly affected by the proposed project) or publish the notice in a newspaper of general circulation. With the move of modified permits into Section 21660.3, the EA is required to meet the same noticing requirements for modified permits except in two areas: 1) noticing the governing body of the jurisdiction where the facility is located and 2) noticing the State Assembly Member and State Senator in whose district the facility is located.</p> <p>With regard to translating the notice, PRC Section 44004 does not require translation, only that the EA consider EJ issues when preparing and distributing the notice to ensure that the notice is concise and understandable for limited English (not non-English) speaking populations. The proposed regulations authorize the EA to provide translation as an additional measure that may be undertaken to increase public noticing for new, revised, and modified permits. Other additional measures that may be undertaken by the EA to increase noticing for new, revised, and modified permits include posting the notice in a local</p>

Section #	Commenter #	Comment	Response
			newspaper of general circulation and noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site. Additional measures that can be undertaken by the EA to increase noticing and improve EJ outreach will be promoted in planned EA guidance and training on noticing and informational meetings.
21660.2(a)	15.1-23	Please see commenter 15.1-23 comment regarding Section 21660.1(b).	Please see response to commenter 15.1-23 regarding Section 21660.1(b).
21660.2(a)	15.1-28 15.1-27	With this in mind, we support the following elements of the proposed regulations: <ul style="list-style-type: none"> o The requirement for additional noticing requirements and informational meetings (hearings) for new and revised permits; 	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21660.2(a)	15.1-21	<p>We noted in our June 2, 2006 comment letter that AB 1497 does not require or authorize the California Integrated Waste Management Board (CIWMB) to impose a requirement for a public meeting before a new facility solid waste permit is issued; nor does it authorize or require the CIWMB to impose any new noticing requirements. Staff acknowledged that these points were correct in subsequent discussions, but stated that the proposed regulations implemented a Board directive. The requirement for an LEA public meeting for new facility permits is retained in these revisions, but is limited to "full" solid waste permits. Requirements to provide additional notices are actually expanded in this revision.</p> <p>The CIWMB Board should not impose meeting or notice requirements on LEAs except as provided by statute--this is an issue that state law has expressly, and rationally, addressed in a different manner for revisions to permits versus new facility permits. The LEA strongly requests Proposal 2006-34 be revised to eliminate the new, non-statutory, requirement for a public informational meeting for new facility permits and the new, non-statutory noticing requirements for RFI amendments and modified permits.</p> <p>The CIWMB has authority to promulgate regulations to implement the Public Resources Code (PRC). Moreover, AB 1497 only directed the CIWMB to define the phrase "significant change in the design or operation of the solid waste facility that is not authorized by the existing permit" as used in PRC 44004(a). The PRC contains no requirement for a public hearing prior to EA approval of an application for a new solid waste facility permit. The statutory requirement for a hearing applies only to significant changes at already-permitted facilities. Similarly, AB 1497 does not direct that this public hearing requirement be extended to new facilities.</p> <p>There is clearly a rational basis for the different treatment of new and revised permits that the legislature has directed. A change in design or operation at an existing facility may not require a new CEQA document, because it may not involve new impacts or significant increases in impacts that were not previously analyzed. There may also be no requirement for a new land use permit, because many older landfill use permits are written so broadly. For these changes, the EA</p>	<p>Informational public hearings are already required for new Construction, Demolition and Inert Debris (CDI) permit applications under current regulation (Title 14 sections 17383.10 and 17388.6). The Board promulgated the CDI regulations under the authority of PRC Section 40502, which requires the Board to adopt rules and regulations including minimum standards for solid waste handling and disposal that do not duplicate any requirements that are already under the authority of the State Air Resources Board or the State Water Resources Control Board (PRC Section 43020), and PRC Section 43021, which requires the regulations to include standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities. The Office of Administrative Law approved these regulations in 2003. The Board directed staff to apply the CDI regulatory requirements to other solid waste facilities in order to provide consistency among different types of solid waste facilities. The proposed regulations in Section 21660.2(a) are consistent with the CDI regulations and the Board's direction. The informational meeting requirement for new <u>full</u> permits is not a duplication of the land use public hearing process or CEQA. Land use entitlements are not always issued for every solid waste facility and public hearings either are not held in every case, were held years ago, or may be too broad in scope and may not address the issues associated with a solid waste facility. In these cases, the informational meeting would not be duplicating a land use hearing. Where a local land use hearing has been held, is not dated, and is not too broad in scope, the proposed regulations allow the EA to substitute, for a new informational meeting <u>if the applicant does not object</u>, a comparable public hearing that was held within the year. In the case of CEQA, not every solid waste facilities permit will have gone through a CEQA process. Also, the CEQA process includes public notice requirements, but does not include a public hearing.</p> <p>The informational meeting requirement for new full permits should be retained to increase the opportunity for the public to be better informed of new facilities proposed by operators, which is one of the key elements in addressing environmental justice and consistent with the intent of AB1497, and adheres with Cal-EPA's Intra-Agency Environmental Justice Strategy's goals: 1) ensure meaningful public participation and promote community capacity-building to</p>

Section #	Commenter #	Comment	Response
		<p>and local authorities may therefore never be subject to a public notification requirement, and may never be exposed to local community comments, unless a notice requirement or a hearing requirement is imposed. This makes a mandated local informational meeting important. In contrast, for a new facility, there will be a CEQA document and related public notice requirements, and there will typically also be a local land use approval process that includes notice and comment procedures.</p> <p>This draft proposes to <u>mandate</u> more hearings/meetings than the law requires, by expanding the scope of these proposed regulations. A desire for consistency with CIWMB regulations for C&D facilities is not an adequate justification to set aside the categorical distinction made in the statute, especially where imposing a non-mandatory requirement would be inconsistent with a rational distinction the legislature made when these PRC provisions were enacted. The CIWMB should take into account that the legislature effectively confirmed this distinction in AB 1497, which revisited this issue area but did not impose a hearing requirement for new facility permits.</p> <p>CIWMB staff's expectation that most of these hearings can be piggybacked onto land use or CEQA hearings is unlikely to be met in practice. To qualify for piggybacking, a prior hearing must meet time constraints, and must include participation by an LEA representative who must be available to answer questions at the hearing. The agencies that conduct potential piggy-back hearings will in most cases <u>not be taking</u> comments at those hearings, not responding to questions, and may not welcome the complications that LEA participation on these terms would involve. In addition, it is important that CEQA hearings and land use hearing not prejudice whether a facility permit will be issued. Requiring an LEA representative to answer questions at these earlier hearings, likely before a complete solid waste facility permit has been submitted, will create an impression that the LEA already intends to forward a proposed permit or permit change to the CIWMB.</p> <p>AB 1497 did not authorize or direct the CIWMB to develop regulations to require public information hearings for new facility permits. Proposal 2006-34 should therefore be revised to eliminate the new, non-statutory, requirement for an LEA public informational meeting for new facility permits.</p>	<p>allow communities to effectively participate in environmental decision-making processes, and 2) Integrate environmental justice into the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.</p>
21660.2(a)	15.1-26	<p>Our greatest concern pertains to the additional public posting and hearing requirements proposed in the regulations. While we fully support staff's recommendation to remove the informational meeting requirement for registration and standardized permits, the Southcentral LEA Roundtable believes that the extensive public notification and informational meeting requirements proposed in the regulations are too stringent.</p> <p>Regarding informational meetings, Board staff asserts that public meetings are not held consistently, are too broad to address issues specific to solid waste, or may be too old to be useful. The Southcentral LEA Roundtable disagrees. In our experience, public hearings are most likely to be held at the local level for new</p>	<p>Please see response to commenter 15.1-21 regarding Section 21660.2(a).</p>

Section #	Commenter #	Comment	Response
		<p>projects and permits.</p> <p>Most projects require some type of discretionary action such as grading or use permits, or zone change decision. Moreover, rural areas often feature natural buffer zones to sensitive receptors of up to one mile or even farther. In urban areas, where residents are often located nearby project sites, additional notifications and meetings would be warranted.</p> <p>For these reasons, we propose that additional public noticing and public hearings be held on a case-by-case basis under any of the following conditions:</p> <ul style="list-style-type: none"> • When the most recent CEQA hearing is more than one year old; • Where public interest in the project warrants additional public meetings (e.g. when the Planning Commission decision is appealed to the Board of Supervisors); • Where the proximity or density of sensitive receptors warrants additional notification. For example, where habitable structures are located less than sensitive receptors are less than 2,500 feet from the facility boundary; or, • When the LEA has received requests from the public for information about the project. 	
21660.2(b)	15.1-29	Please see commenter 15.1-29 comments regarding Section 21563(d)(4).	Please see response to commenter 15.1-29 regarding Section 21563(d)(4).
21660.2(c)(1)	15.1-21	<p>In section 21660.2(c)(1) the meeting location has been changed from not more than five (5) miles to not more than one (1) mile, although there is a provision that allows the LEA to have a meeting at a alternative location (presumable greater than one mile) this change is too restrictive and unnecessary. In most settings related to a landfill there will not be a suitable location within one mile, this then places the LEA in a position to justify to the CIWMB it's actions to have this meeting more than one mile from the facility. This is an added and unnecessary burden on the LEA that is unjustified. Any statement related to this restriction of one (1) mile should be <u>removed</u> from this section.</p> <p>The LEA suggests the following alternative statement:</p> <p><i>"The meeting shall be held in a suitable location as close as reasonably practical to the facility that is the subject of the meeting".</i></p>	Reducing the location down to 1 mile should help to ensure that the meeting location is conveniently located in urban areas. This should help facilitate attendance by residents, including those that rely on public transportation. If a suitable and available location cannot be found within 1 mile, which for example may be the case in some rural situations, the EA can designate an alternative suitable location that is as close to the facility as reasonably practical.
21660.2(c)(3)	15.1-23	Please see commenter 15.1-23 comment regarding Section 21660.1(b).	Please see response to commenter 15.1-23 regarding Section 21660.1(b).
21660.2(c)(3)	15.1-01	<p>I am writing you regarding proposed changes to AB 1497, more specifically Public Resources Code 44004(h)(C) which states in pertinent part: The enforcement agency shall consider environmental justice issues when preparing and distributing the notice to ensure that the notice is concise and understandable for limited-English-speaking populations.</p> <p>Any and all notices regarding environmental justice should be appropriately</p>	Consistent with PRC Section 44004(h)(1)(A), the proposed regulations (Section 21660.3(b)) require that for new and revised full permits the EA post the notice in the manner set forth in Government Code Section 65091, which requires the EA to notice 1) the owner of the subject property; 2) each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project; 3) the owners of property within 300 feet of the subject property or post a notice in a newspaper of general circulation if there are more

Section #	Commenter #	Comment	Response
		<p>tailored to the specific community in which these issues arise. To accomplish this goal reference should be made to the Geographic Information System (GIS) to determine the percentage of non-English speaking populations. Based upon this information, aforesaid environmental justice issue notices should be distributed in the dominant language of the specific community in the broadest manner feasible.</p> <p>One method that can be used is postings at all government owned locations; ie. the library, the park, the police station, etc... Additional areas for postings include area newspapers, citywide newspapers and on the internet. Furthermore, the local governments of all unincorporated areas/cities surrounding the community wherein the environmental justices issue arose should also be contacted. This can be done by informing the chief executive of these surrounding governments in writing. Other methods that can be employed is broadcasting the notice on local radio stations in the dominant language of the community, as well as on the local public access channel.</p> <p>I hope that some if not all of these suggestions are implemented so that the public is fully informed and apprised of all relevant issues that concern them so that appropriate and correct measures are taken with the full participation of those they affect.</p>	<p>than 1,000 owners of property within 300 feet of the subject property, and 4) either post the notice in three public locations (at least one of which must be directly affected by the proposed project) or publish the notice in a newspaper of general circulation. The proposed regulations also require the EA to notice the governing body of the jurisdiction where the facility is located and the State Assembly Member and State Senator in whose district the facility is located. The EA is authorized to undertake additional measures to increase public notice and, for new and revised full permits, to encourage attendance at the informational meeting.</p> <p>Section 21660.3(a) of the proposed regulations specifies the content of the notice, including 1) the name and location of the facility, 2) the purpose of the informational meeting, 3) a description of the revision or new permit, 4) where additional information is available, 5) date, time and location of the meeting, 6) options for submitting comments, and 7) information on the availability of appeals to challenge the EA's issuance or denial of a revised or new permit.</p> <p>With regard to PRC Section 44004(h)(1)(C), the EA is required to consider EJ issues when preparing and distributing the notice to ensure that the notice is concise and understandable for limited-speaking populations, but the statute does not require that any specific measures be undertaken by the EA. The proposed regulations (Section 21660.2(c)(3)) are consistent with this requirement and authorize the EA to undertake additional measures to increase public notice and to encourage attendance at an informational meeting, including but not limited to, providing additional posting at the facility entrance, noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site, posting in a local newspaper of general circulation, and multilingual notice and translation, and multiple meeting dates, times and locations, such as translation. The additional measures are permissive to provide EAs with flexibility in addressing site specific issues, such as the location of the facility (rural versus urban), the distance to neighbors (within 300 feet versus 10 miles), and the makeup of the community.</p> <p>The proposed regulations are trying to balance the need to provide opportunity for the public to be better informed of new facilities and changes at existing facilities proposed by operators with the level of additional noticing needed to be provided by EAs, while recognizing the need to provide flexibility for EAs to address site specific issues. To continue providing EAs with needed flexibility, additional measures that can be undertaken by EAs will remain permissive. Additional measures suggested for inclusion in the proposed regulations will be used as examples for improving environmental justice outreach in planned EA guidance and training on noticing and informational meetings, rather than including them in the proposed regulations.</p> <p>To provide the Board with a better understanding of informational meeting comments and to place the comments in the record of approval as well as any written comments received, and, where applicable, any steps that were taken by the EA in response to those comments, Section 21650(g)(5) of the proposed</p>

Section #	Commenter #	Comment	Response
			regulations requires that the EA include with the accepted application package that is submitted to the Board, in addition to written public comments received, "... a summary of comments received at the informational meeting, and, where applicable, any steps taken by the EA relative to those comments." Board staff already asks EAs for this information currently when writing agenda items for the Board meeting. This information assists the Board in determining what general actions if any might be needed to meet EJ objectives. Guidance will be developed for the EA after the regulations are adopted on how they may wish to handle comments received in writing or orally at the informational meeting.
21660.2(c) (3)	15.1-06	<p>Listed below are some additional measures that may be implemented to ensure fair treatment and meaningful involvement among all people who live, work, or pass through areas containing "facilities."</p> <p>Increase public notice <i>Posting notices on doors, lamp posts or public buildings is not the only way to notify people about nearby facilities!</i></p> <p>The first step in increasing public notice is to effectively raise awareness in the local community. This involves educating residents about nearby facilities, where they are located and their potential harm to the environment or health of people living, working or passing through the area.</p> <p>Educating community members about the importance of permits for these facilities is vital. It is the only way to make sure that everyone fully understands the issues facing their community.</p> <p><u>This may be implemented through:</u></p> <ul style="list-style-type: none"> • Town hall meetings with local representatives (weekends/day & weekdays/ night) • Church/temple/mosque/synagogue meetings (weekends/ peak hours) • After school meetings conducted by the PTA (weekdays/ night) • Environmental festival or concert (one weekend/day) <p>Encourage attendance Most people do not become actively involved in any issue unless they consider it to affect them personally. Moreover, any worthwhile event needs to be able to have the greatest amount of turnout.</p> <p><u>Therefore, the best way to encourage attendance is through:</u></p> <ul style="list-style-type: none"> • Passing out flyers in front of supermarkets at peak hours (multi-lingual)¹ • Mailing flyers to residences, schools and businesses (multi-lingual) • Sending out press kits to local newspapers, radio and television stations (multi-lingual) • Calling on local community leaders or group leaders to address the issue at 	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).

Section #	Commenter #	Comment	Response
		<p>upcoming meetings (multi-lingual)</p> <ul style="list-style-type: none"> Grassroots advocacy—speaking to people door-to-door, calling residents and businesses, and personally making announcements in local schools (multi-lingual) <p>Any persons interested All people in every race, religion, gender, sexual orientation educational and socio-economic level need to be aware of this issue. Furthermore, linguistic barriers also need to be overcome.</p> <ul style="list-style-type: none"> Text <i>and</i> pictures in flyers must be simply designed Font size and pictures should be big, bold and easy to read Flyers must be available in languages spoken by community members Meetings must be held at reasonable times/days, in languages spoken/translated by community members <p>Facility The subject “facility” needs to be clarified and simply defined. All people must understand what a facility is, its location and why it is posing a problem.</p> <p>Additional posting at the facility Additional notices on and around the entrance/enclosure of the facility may be implemented. Notices inside the facility itself also may be posted for employees to read (multi-lingual).</p> <p>300 feet</p> <ul style="list-style-type: none"> If the nearest residence or business <i>is</i> within 300 feet of the site, it will receive two or even three notices posted on the door and in the mail. If the nearest residence or business <i>is not</i> within 300 feet of the site, it will only receive one notice in the mail if it is located within that city (multi-lingual). 	
21660.2(c) (3)	15.1-07	<p>First, let me say that I applaud your efforts to increase the latitude with which the Enforcement Agencies (EAs) can mandate additional notice steps to help ensure environmental justice for the citizens of all our communities. Having said that, I must add that it would be better if you would go just a bit further in your examples listed. I realize your verbiage of, "including but not limited to" leaves the door essentially open to the EAs to consider additional steps, but why not put it down in black and white?</p> <p>For example, why not suggest the postings be at the area churches, libraries, post offices, Laundromats, and community centers? Also, postings should not only be "multilingual", but should have graphics for those who cannot read in ANY language! Your current verbiage mentions "...and multilingual notice and translation...". It is not clear if you are saying it is possible to mandate translation services will be provided at the meetings. If this is the case, and it should be, the wording needs to be clearer and not left to interpretation.</p>	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).

Section #	Commenter #	Comment	Response
		Finally, one area I do not see covered and think should be seriously considered is the mandate to have the meetings at locations on or near bus routes, and better yet, offer transportation services, perhaps from local churches or businesses, to the meeting sites. This would really demonstrate our commitment to environmental justice for all.	
21660.2(c) (3)	15.1-08	I would like to comment on environmental justice with specific reference to § 21660.2 (c) which addresses in part permit requirement for significant change. The two areas of concern are notice and accessibility. Regarding notice, I propose approaching the local radio stations to publicize the multiple meeting dates, times, and locations in addition to using the local newspaper and posting multilingual notices for the limited-English-speaking population. I am confident that the radio stations would run the announcements for free as a public service. Regarding accessibility, I propose providing dedicated phone lines for those who cannot leave their homes or jobs during the appointed meetings in addition to the multiple meeting dates and times for those who work and cannot get away at certain times. Including the phones in the meetings will help to ensure that all who are interested can participate in the discussion with the facility that is the subject of the meeting.	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).
21660.2(c) (3)	15.1-09	1) “Posting in a local newspaper or general circulation...”, should read “Posting in a local newspaper or general circulation that can reasonably be calculated to communicate notice...”; 2) “and multiple dates, times and locations...” should read “and multiple dates, times and locations sufficient to accommodate work schedules...”; 3) “EA may under take additional measures...” should read “EA shall under take additional measures...”.	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).
21660.2(c) (3)	15.1-10	The proposed measures do not adequately alert the public. First, posting on the facility does not accomplish the goal of giving notice to the community because they are usually located in areas that are not frequently traveled by the public. Second, 300 feet is not a large enough area because the effects from waste facilities have the potential to reach much farther then 300 feet. The regulations should require an owner of a waste facility to place billboards within 1/2 mile radius of the facility on the roads that most frequently traveled. The billboards should be in English and whatever language that is most frequently spoken in the area. Because sending a notice to each resident and business would be far too expensive, a facility should be required to put a notice in a local paper. The newspaper should be of general circulation and there should be a requirement for the notice to be posted in a certain section with writing of a reasonable size. Facilities should also send notice to the local government representatives, schools, community centers. The public has a right to notice and the regulations should make it so the information is widespread and easily obtained.	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).

Section #	Commenter #	Comment	Response
21660.2(c)(3)	15.1-11	I believe that in order to met compliance with environmental justice, the EPA must seek out the community's involvement. Thus, when holding the informational meeting that will be required for a new and revised full solid waste facilities permit, the community must receive proper notice of the meeting. I propose that under the additional measures that may be taken to increase public notice it should also include mailing multilingual notices to all residences and businesses in the community. I suggest the definition of community be determined on a case by case basis. It should differ depending on the area where the permit is requested.	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).
21660.2(c)(3)	15.1-12	Place ads in the newspapers, both local and national, notifying people of meetings and advising them that if they can't come to a meeting they can call, write, or email their local legislators in order to obtain a response from the city. The ads should be placed in English and Spanish in local newspapers in Spanish speaking communities. In communities where different languages are spoken, the ads in those local community newspapers should be placed in English and whatever language is most predominant in that community. Post letters in community centers, libraries, street posts, and markets. Most markets have bulletin boards on which people can post fliers. The language on the fliers should be in both English and the language that is common in the area where the particular market is located. Ads can also be placed in radio and on television. Some radios have free public service ads. Radio stations offer free ads if there is a community issue. Radio ads are an excellent forum because there are many people in certain communities who are not educated and cannot read. Notices can also be placed in local houses of worship and on listserves on the internet. Some community associations or houses of worship have listserves and this would be a way to notify a large segment of the local population.	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).
21660.2(c)(3)	15.1-13	A condition of environmental justice exists when environmental risks, hazards, investments and benefits are equally distributed without direct or indirect discrimination at all jurisdictional levels and when access to environmental investments, benefits, and natural resources are equally distributed; and when access to information, participation in decision making, and access to justice in environment-related matters are enjoyed by all. Therefore, the state statute, Public Resources Code (h) (C) states that "the enforcement agency shall consider environmental justice issues when preparing and distributing the notice to ensure that the notice is concise and understandable for limited-English speaking populations. I would modify this statute, but stating that: the enforcement agency shall consider environmental justice issues when preparing and distributing the notice <i>and must</i> ensure that the notice is concise and understandable for <i>all state populations, and if need be, provide translation to ensure that it is understood.</i> These slight changes, I believe, make the statute clear, since the words "limited-English-speaking populations" is vague.	PRC Section 44004(h)(1)(C) can only be amended through the legislative process and not by regulation. Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).
21660.2(c)(3)	15.1-14	Section 21660.2(c)(3) references posting in a "local newspaper of general circulation." There exists a possibility of ambiguity in the interpretation of the proposed regulation. The proposed regulation, I believe, should be more	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).

Section #	Commenter #	Comment	Response
		<p>stringent in its application. For argument's sake, let us propose that the majority of the population in a given community is of Hispanic, Chinese or Vietnamese extraction, and the local newspaper of "general circulation" is the Los Angeles Daily News. Generally, communities comprised in whole or part by people to which English is not their primary language circulate a newspaper or periodical that is published in their native language. While the proposed regulation might allow for the facility operator to satisfy the regulation by simply providing notice through the Daily News, the notice might not fulfill its intended purpose if it fails to reach its intended audience- the residents of the locality potentially affected by the facility in question. Even if the facility operator in question was to place the notice in the Daily News in a translated format, the circulation may not be one that is read due to the language barrier.</p> <p>In the interest of environmental justice, I believe that the proposed regulation would properly allow for the notice to reach affected portions of the community that are "linguistically isolated" if it was to read "posting in a local newspaper of general use within that specific community."</p> <p>Section 21660(c)(3) also enumerates measures to be taken that will increase public notice and encourage attendance. The regulation states that noticing is required beyond 300 feet if the closest residence is not within 300 feet of the facility. This may, in my opinion, not be the best way to provide the public with adequate notice, as well as being not cost effective to the facility operator if the residents of the community live further from the facility than the 300 feet stated. Adequate notice can be achieved through the posting of notices, with accompanying translations as needed, at locations of public congregation. This may include convenience and grocery stores, recreational centers, parks, etc. This may also be a cost effective alternative for the facility operator to reach the largest target audience.</p> <p>Section 21660.2(c) reads that the meeting should be informational in nature. California identifies environmental justice as the "fair treatment of all races, cultures, and incomes with respect to the development, adoption, implementation and enforcement of environmental laws, regulations and policies." The definition provided by the Environmental Protection Agency (EPA) reiterates the above definition, however adds the term "meaningful involvement." In my opinion, I believe that the application of the EPA's variation allows for a greater community involvement, and allow questions to be posed to the EA/facility operator that may potentially affect the EA's determination. While the determination remains with the EA, I believe the EA would benefit as a whole by permitting the attending public to voice concerns concerning the facility located within their community.</p>	
21660.2(c) (3)	15.1-15	More specifically I am writing to comment on the notice requirements for the informational meeting for significant changes by solid waste facilities. A change made by a solid waste management facility can have a significant impact on the health and wellbeing of citizens living in the community in which the facility is	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).

Section #	Commenter #	Comment	Response
		<p>located. People ought to know that a change might take place, as well as the nature of that change. It is imperative therefore that the public be adequately notified of the meetings where those changes will be discussed. Therefore I propose that the first step toward this notification is to require enforcement agencies to post that a meeting is taking place in every government funded institution in that community (i.e. post office, schools, DMV). Additionally the posting should be in the two most dominant languages in that area. This determination can be made by a review of the latest census numbers.</p> <p>Another way to adequately inform people of the meeting is to post notice in high traffic areas of the community. For example, almost everybody must go to the supermarket at one time or another or a gas station located on a major road or near a highway entrance. Also, the agency can have a campaign for people to sign up to receive notice when there will be meetings. Maybe set up a table with volunteers at the local fair or farmers market. People can give an email address or mailing address to receive notice regarding solid waste management facilities in their area. This ensures that the people interested will be receiving the information necessary.</p> <p>Additionally, getting children involved in the process can help inform people now and spark an interest so that they stay informed later. More and more children have sway over their parents to buy that cereal they want or take them to Disneyland. This influence can be used to get people to the informational meetings. The enforcement agencies can send representatives to public schools one day a year to demonstrate how important it is to stay informed about the business of the local solid waste management facility. The EA representative can give the students informational brochures to take home to their parents. Even if this method proves ineffective to get the parents to the next meeting at least the information is planted in the children's mind for the future.</p>	
21660.2(c)(3)	15.1-16	<p>After reviewing the proposed permit implementation regulations, I believe further change is required to ensure AB 1497's enactment takes full force in the community. Specifically, the regulation interpreting "environmental justice" in increasing public notice of the informational hearing needs revision. Here are my suggestions for such change:</p> <p>1) Written notice in local newspapers as well as postings on the business itself is not sufficient. Other media avenues, including local radio and public access television is necessary. Many California citizens are unable to read due to a lack of educational background. Therefore, local radio or television would provide sufficient notice to those illiterate persons who are interested in the informational meeting.</p> <p>2) Notice to elected public officials in the city, county, and neighboring cities would increase "environmental justice." In the future, these elected officials would be aware of the content of these informational sessions and thus would have preventive power in their own cities and communities. Providing hands-on power to these officials will, at the end of the day, enhance "environmental</p>	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).

Section #	Commenter #	Comment	Response
		<p>justice" and decrease local businesses seeking permits without merit.</p> <p>3) Placing a 300 ft. radial limitation on notice does not meet "environmental justice." Although I believe there should be a requirement on how far notice shall be given, putting an exact figure on such requirement does not meet "environmental justice." On the other hand, perhaps using socio-geographic ratios would provide a more efficient mode of giving notice. Ideally, after computation, more concentrated areas should require less distant notice. Less concentrated areas would require a broader and wider range of notices. This will ensure that businesses, in applying for the permit, do not misinterpret the 300 ft. requirment and fail to post notice beyond that number assuming they have met CIWMB requests.</p> <p>4) Lastly, the multilingual notice requirement needs further clarification and specificity. I believe using socio-economic ratios and computations will enable businesses to know exactly in how many languages the notice must be given. The "multilingual" provision could lead to many businesses solely putting hispanics on notice while their business is located, for example, in mainly an Asian community. Therefore, the "multilingual" provision should be based on providing notice to those minorities in the community with the highest concentration of people or with any concentration of people.</p>	
21660.2(c) (3)	15.1-17	<p>Consideration of environmental justice issues with regard to public notice should include opportunities for communities to be involved in government review of solid waste facilities. In addition, enhancing community access to information and improved data collection and input are key.</p> <p>Since people's quality of life is at risk, the decision-making process should be shared by the people of whom the decision affects their communities. The communities must be included at all levels of the process including the development and enforcement of environmental regulations.</p> <p>The enforcement agency itself should have a relationship with the community affected.</p> <p>Community needs should be institutionalized into the agency's budget, planning and implementation processes. To do so efficiently the enforcement agency should stream line and consolidate community participation into a central office, and Community-based committees.</p> <p>The central office should be the central location where adequate, accurate and appropriate information can be accessed and distributed by the public. Notice is appropriate when it considers the language and literacy level of the community. Not only should multilingual notice and translation be available, but also films, cartoons and other means to communicate effectively. Notice is accurate and adequate when the public can be informed of and involved in the inspections and</p>	<p>Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).</p> <p>Many EAs have developed a relationship with the affected communities and the Board encourages this practice through training and guidance. EAs are already working with community-based groups who want to be involved on a case by case basis, such as the North Valley Coalition on permitting issues at the Sunshine Canyon Landfill in Los Angeles, and the Board continues to encourage this practice.</p> <p>The comments on the need for the EA to institutionalize into its budget community needs, to consolidate community into a central office, to employ a number of people from affected communities, to support a link with academic institutions and communities in need of research are outside the scope of these regulations as well as Board authority.</p> <p>In the development of environmental regulation, such as the proposed regulations, the Board meets and exceeds the State's formal rulemaking process (Government Code Section 11346 et seq.) by using an informal process prior to beginning the formal process that seeks early input from stakeholders and the public on initial draft regulations through informal workshops; by posting informal and formal rulemaking documents on the Board's web site for access by the public; and by creating a mailing list of key stakeholders and potentially affected parties that are noticed during development of the regulations and solicited for comments on the proposed regulations.</p> <p>The facility operator is required pursuant to PRC Section 44001to file an</p>

Section #	Commenter #	Comment	Response
		<p>negotiations of the citing of solid waste facilities.</p> <p>Community-based committees made up of people based in the affected community including women and youth can serve as a link between the agency and the community. Furthermore the community-based committees can advise on the most effect ways of communication.</p> <p>In addition, the enforcement agency itself must employ a substantial number of people from affected communities to establish its credibility and maintain the link with the community.</p> <p>The enforcement agency should actively work with existing community-based groups including civil rights groups to ensure the needs of the community are addressed and the policy (of permit renewal upon substantial change) is equitably implemented.</p> <p>The enforcement agency must support the link of academic institutions with communities in need of research, health assessment, and data analysis.</p> <p>The facility operator should have the burden of proof in seeking the permit and showing the community they meet safety standards.</p>	<p>application for a solid waste facilities permit with the EA and cannot operate a facility without a permit pursuant to PRC Section 44002. The operator is required to include in the application package information in adequate detail to permit a thorough evaluation of the environmental effects of the facility and to permit estimation of the likelihood that the facility will be able to conform to the standards over the useful economic life of the facility. In addition, Section 21570(f)(11) of the proposed regulations requires the operator to include in the application package a list of all public hearings and other meetings open to the public that have been held or copies of notices distributed that are applicable to the proposed facility. Board agenda items for permit actions currently include a description of the level of community outreach used for purposes of addressing EJ as it relates to the permit action being considered. Requiring the operator to submit a list of all public notices and meetings conducted relative to the changes being requested in the application will improve the reporting of this information to the Board and the furthering of EJ in the consideration of permit actions.</p>
21660.2(c) (3)	15.1-18	<p>Comments to Section 21660.2 (c)(3) Page 14 Lns. 44-48 inclusive.</p> <p>I hereby submit further text changes to Lns. 44-48 of the sections listed above for your consideration. Proposed changes and deletions are in italics.</p> <p>"(3) EAs may, <i>and should</i>, undertake additional measures to increase public notice and to encourage attendance by any persons who may be interested in the facililty that is subject of the meeting, including but not limited to additional posting at the facility entrance, noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site, posting in a local newspaper of general circulation, and multilingual notice and translation, and multiple meeting dates, times and locations. <i>EAs, must, in any event, give actual and effective notice to at least 65 % of the community within a quarter mile radius of the facility. Effective notice means using all available census data and softwares to determine the audience to be given notice, and to then determine which methodology (i.e. telephone call, mailings, postings, public service announcements (radio,t.v.) to be employed to achieve communication of notice of the hearing to 65 % of the community within a quarter mile of the applicant facility.</i></p>	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).
21660.2(c) (3)	15.1-19	<p>As a concerned citizen of the State of California, I would like to submit to you for the Board's consideration a comment regarding 21660.2 (c) (3), that informational flyers in English and the predominant second language in the area affected by the proposed permit hearing be distributed to the neighborhood. This</p>	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).

Section #	Commenter #	Comment	Response
		will insure that a posting 300 yards beyond the facility will be more even and the information decimated to those residence who may not go by the facility and see the posting. The hiring of individuals to distribute the flyers to all residents in a larger geographical region will insure that more people are informed of the permitting process. The cost to send out several "runners" to distribute the notices would be very minimal and would achieve the Board's goal of an informed citizenry.	
21660.2(c)(3)	15.1-20	<p>Your additional measures seem encouraging however, I would suggest additional measures to help local jurisdictions make notice more meaningful to the local communities affected by a proposed solid waste treatment facility.</p> <p>I think that when people think about a solid waste facility in the vicinity of their homes they immediately think about the well-being of their children and other family members. What better way to reach <i>concerned parents</i> than to connect with them at the place where most have a strong tie such as public and private schools in the vicinity of the proposed location. Posting a notice near or at (with approval of course of the school) all elementary, middle, and high schools in the area would have a large impact because either the parents themselves would see the sign or older school children may carry the news home to their parents. This may be a more effective and meaningful addition to increasing public notice and attendance by those interested in a proposed solid waste facility in their area.</p> <p>Of course one needs next to determine which schools constitute being in the 'vicinity' of the proposed facility. This I think should depend on the districts of each school. Information should be attained to show which children from which areas attend each school. That way one will only post notice at schools whose students live closest to the proposed facility.</p>	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).
21660.2(c)(3)	15.1-03	The phrase, "noticing beyond 300 feet if the nearest residence or business is not within 300 feet of the site," was inserted. However, without an outer limit as to the noticing distance or a definite number of notices to be issued, there is no way for the LEA to meet this noticing requirement, since there is a seemingly infinite number of residences and businesses beyond 300 feet. In addition, it has been the SWMP's experience that there are some members of the public who are not satisfied with an LEA's noticing even if the noticing complies with applicable statute. Thus, the inclusion of this phrase could expose LEAs to unnecessary criticism.	Section 21660.2(c)(3) is permissive and can be undertaken by the EA as an additional measure if the EA sees the need to increase public notice and encourage attendance at informational meetings. The EA could always post a notice in a newspaper of general circulation if there are more than 1,000 property owners they see the need to notify.
21660.2(c)(3)	15.1-03	Although California Integrated Waste Management Board staff is required to respond only to newly proposed changes to the regulations, the SWMP has a comment regarding the single-underlined word, "additional." This word indicates there are required noticing measures. However, Section 21660.2(c) does not list the required noticing measures or reference Government Code, Section 65091, subsections (a)-(c). Since the informational meeting for new and revised full solid waste facilities permits must meet noticing requirements in Section 21660.3, subsections (a) and (b), the SWMP suggests that subsection	The noticing requirements for informational meetings is located in Section 21660.3(a) and (b); however, Section 21660.2(c)(3) is retained to emphasize additional measures that could be taken by the EA with regard to holding and noticing informational meetings.

Section #	Commenter #	Comment	Response
		(c)(3) of Section 21660.2 be revised to reference Section 21660.3, as it pertains to new and revised full solid waste facilities permits, which includes additional noticing measures in subsection (b)(4).	
21660.3	15.1-28 15.1-27	With this in mind, we support the following elements of the proposed regulations: <ul style="list-style-type: none"> o The requirement for additional noticing requirements and informational meetings (hearings) for new and revised permits; 	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21660.3	15.1-21	Please see commenter 15.1-21 comments regarding Sections 21660.1 and 21660.2(a).	Please see response to commenter 15.1-21 regarding Sections 21660.1 and 21660.2(a).
21660.3	15.1-26	Please see commenter 15.1-26 comments regarding Sections 21660.1 and 21660.2(a).	Please see response to commenter 15.1-26 regarding Section 21660.1 and commenter 15.1-21 regarding Section 21660.2(a).
21660.3(a) (9)	15.1-21	Notice requirements for modified permits continue to state that the notice must include information on "options for submitting comments." The regulations do not specify what options for submitting comments, if any, the EA must offer. We presume that lack of specificity is intentional, and that any reasonable mechanism for accepting comments will comply with this requirement. For example, where subsequent CIWMB review of an EA action is mandated, the notice could state that there will be an opportunity to comment during CIWMB review. The absence of specificity in these regulations as to this requirement is appropriate, because there is no statutory basis to require an EA to accept public comments for any permit change other than a significant change, or to respond to comments for any permit change.	The EA can use any reasonable mechanism for accepting comments.
21660.3(a) (10)	15.1-21	<p>All LEA determinations concerning the classification of applications for processing purposes are interim decisions that do not finally determine the rights of an applicant, whether a permit will be granted or denied, or how a permit may be conditioned. These regulations should make it clear that these interim, procedural LEA determinations are <u>not</u> subject to appeal.</p> <p>We previously requested the deletion of sections 21660.1 (a) (7), 21660.3 (a) (11), and 21660.4 (a) (10) to eliminate references to appeals where no appealable EA action had been taken.</p> <p>The requirement that notice concerning appeals processes be provided when certain applications are determined to be complete and correct (see 21660.3(a)(11) [now (a)(10)]) has been retained, and is still inappropriate because this LEA determination is not appealable. However, the revised text usefully clarifies that the information concerning appeals is to address the issuance or denial of a permit, i.e., a future LEA action. It would be better to also defer this notification requirement to a time when the information is pertinent, but the clarified language in this subsection is helpful.</p>	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21660.3(b),	15.1-04	Please delete "and Modified" as this section deals with a "meeting notice" [see	The noticing requirements for modified permits are located in Section

Section #	Commenter #	Comment	Response
Title		immediate paragraph under this section title] and modified permits do not require an information meeting.	21660.3(b), which also includes the noticing requirements for informational meetings that are conducted for new and revised permits. The noticing requirements for modified permits are less than those for revised and new permits, and do <u>not</u> include 1) noticing the governing body of the jurisdiction where the facility is located and 2) noticing the State Assembly Member and State Senator in whose district the facility is located.
21660.3(b)	15.1-01 15.1-06 thru 15.1-12 15.1-14 thru 15.1-16 15.1-18 thru 15.1-20	Please see individual comments regarding Section 21660.2(c)(3).	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).
21660.3(b)	15.1-13	Please see commenter 15.1-13 comment regarding Section 21660.2(c)(3).	Please see response to commenter 15.1-13 regarding Section 21660.2(c)(3).
21660.3(b)	15.1-17	Please see commenter 15.1-17 comment regarding Section 21660.2(c)(3).	Please see response to commenter 15.17 regarding Section 21660.2(c)(3).
21660.3(b)	15.1-23	Please see commenter 15.1-23 comment regarding Section 21660.1(b).	Please see response to commenter 15.1-23 regarding Section 21660.1(b).
21660.3(b) (2)(a) & (b)	15.1-21	Finally, the new language in proposed section 21660.3(b)(2)(a) and (b), referring to posting "in compliance with Government Code section 65091" must be revised for legal accuracy, e.g. to read "in the manner set forth in Government Code section 65091." This change is necessary because section 65091 imposes a <u>requirement</u> for posting only where a public hearing is required by Title 7 (Planning and Land Use) of Division 1 of the Government Code. The Government Code does not impose the hearing requirement the CIWMB is manufacturing.	Sections 21660.3(b)(2)(a) and (b), and 21660.4(b)(2) were edited by deleting "in compliance with" and replacing with "in the manner set forth in" so the requirement now reads: "the EA shall post the notice in the manner set forth in Government Code Section 65091."
21660.3(b) (2)(a) & (b)	15.1-03	The two subsections, (a) and (b), should be changed to (A) and (B).	Section 21660.3(b)(2)(a) and (b) was edited so it now reads: Section 21660.3(b)(2)"(A)" and "(B)."
21660.3(b) (2)(a) & (b)	15.1-04	There are two subsections (b). Is the subsection (b) on page 16 supposed to be subsection (c)??? If so, then there is a formatting issue with (b)(3) and (b)(4).	Please see response to commenter 15.1-03 regarding Section 21660.3(b)(2)(a) & (b).
21660.3(b) (4)	15.1-03	Please see commenter 15.1-03 comment regarding Section 21660.2(c)(3).	Please see response to commenter 15.1-03 regarding Section 21660.2(c)(3).
21660.4	15.1-29	Please see commenter 15.1-29 comments regarding Section 21563(d)(4).	Please see response to commenter 15.1-29 regarding Section 21563(d)(4).
21660.4(a) (9)	15.1-04	Please delete "modified" permits from this section as this section deals only with new and revised full permit applications.	Section 21660.4(a)(9) was edited by deleting reference to "modified" permits.
21660.4(a) (9)	15.1-21	Please see commenter 15.1-21 comment regarding Section 21660.3(a)(10).	Please see response to commenter 15.1-21 regarding Section 21660.3(a)(10).
21660.4(b)	15.1-01	Please see individual comments regarding Section 21660.2(c)(3).	Please see response to commenter 15.1-01 regarding Section 21660.2(c)(3).

Section #	Commenter #	Comment	Response
	15.1-06 thru 15.1-12 15.1-14 thru 15.1-16 15.1-18 thru 15.1-20		
21660.4(b)	15.1-13	Please see commenter 15.1-13 comment regarding Section 21660.2(c)(3).	Please see response to commenter 15.1-13 regarding Section 21660.2(c)(3).
21660.4(b)	15.1-17	Please see commenter 15.1-17 comment regarding Section 21660.2(c)(3).	Please see response to commenter 15.17 regarding Section 21660.2(c)(3).
21660.4(b)	15.1-23	Please see commenter 15.1-23 comment regarding Section 21660.1(b).	Please see response to commenter 15.1-23 regarding Section 21660.1(b).
21660.4(b) (2)	15.1-21	Please see commenter 15.1-21 comment regarding Section 21660.3(b)(2)(a) and (b).	Please see response to commenter 15.1-21 regarding Section 21660.3(b)(2)(a) and (b).
21663(a)	15.1-21	<p>The proposed regulations continue to provide that the CIWMB Executive Officer (EO), rather than the Board, will concur or object to a "modified permit" as classified by the EA. PRC 44009 specifically states that "the board shall, in writing, concur or object to the issuance, modification, or revision" of any solid waste facilities permit. We noted in our previous comments that moving this concurrence function to the EO would eliminate a pre-decision, noticed public hearing before the CIWMB, which seems contrary to the CIWMB general intent to increase opportunities for public participation in the permitting process.</p> <p>In the revised text, staff have added language requiring the EO to report his actions to the Board at a regularly scheduled meeting, and to post information to the web site <u>or</u> agenda. That formulation means a member of the public who reviews Board agendas may not receive notice of these actions, even after the fact, because the only posted notice may be on the web. This may not be a Brown Act violation, because the EO's report would be for information and not for action, but it is inappropriate for the CIWMB to impose new notice and meeting obligations on EAs where there is no statutory basis for doing so, while at the same time using its delegation powers to eliminate public notice and public comment on the same decisions at the CIWMB level.</p> <p>In our prior comments we urged that this <u>reduction</u> in the transparency and accessibility of permitting processes at the CIWMB should be reconsidered, or it should be disclosed and explained forthrightly in the rulemaking package. The revised text retains this delegation. It is unclear whether a clear disclosure and forthright explanation will be made available to the public; the staff report on this latest set of revisions was not available on the web as of noon on September 25, 2006.</p>	<p>The Executive Director should continue to be allowed to concur on modified permits as specified in Sections 21663(a) and 21685(c). The Executive Director has already been delegated by the CIWMB to concur on non-significant permit modifications. PRC Section 40430 allows the CIWMB to delegate any power, duty, purpose, function and jurisdiction which it deems appropriate to the Executive Director. The CIWMB has delegated to the Executive Director in its "Board Governance Policies for Governance and Board-Staff Linkage" Resolution, October 17, 2006, the approval of non-significant modifications to solid waste facilities permits, while retaining approval authority on permit revisions. In adopting the delegation, the CIWMB acknowledged that once the Permit Implementation Regulations are adopted, the delegation language will be simplified to say: "Approve modified permits in accordance with 27 CCR Section 21663(a)."</p> <p>The Executive Director would be required to report to the Board at its next regularly scheduled meeting on the concurrence or denial of modified permits, or the Executive Director could report this information to the Board via a memo. In addition, a notice of the issuance of a modified permit would be posted on the Board's web page or agenda.</p>
21665	15.1-04	As previously stated in our May 18, 2206, comment letter, the LEA <u>strongly supports</u> the decision tree concept as described in Title 27, California Code of Regulations, §21665. The decision tree provides for an efficient processing of	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.

Section #	Commenter #	Comment	Response
		operational and design changes at solid waste facilities based on the resultant impacts of the proposed change. In addition, a real benefit of the decision tree concept is the elimination of a one-size-fits-all approach; it acknowledges the diversity of California as a whole.	
21665(d)	15.1-28 15.1-27	With this in mind, we support the following elements of the proposed regulations: <ul style="list-style-type: none"> ○ The new method to change activities at a solid waste facility by means of a “modified permit” to allow modifications to a permit for changes that are less than significant; 	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21665(d)	15.1-23	The regulations do not include objective criteria the CIWMB will use to classify an application as a modified permit – The proposed regulations provide different public hearing procedures for modified and revised permits. Only revised permits are subject to an informational meeting. For this reason, the classification of an application will affect a community’s ability to comment on and review proposed changes. To ensure that changes that may affect the public are subject to an informational meeting, the criteria CIWMB uses to classify an application as a modified permit or revised permit should be clearly defined. The criteria in the proposed regulations for classifying a modified permit are vague, and therefore, leave a great deal of discretion to the EA. To protect the public’s right to be informed and involved in waste facility permitting changes, the regulations should be clear and specific on the criteria CIWMB will use to classify an application as a modified permit.	<p>The proposed regulations provide a methodical process in the form of a decision tree for EAs to follow when they are presented with a request by an operator to make changes at a facility. The methodology provides a consistent analytical process for EAs to use that allows EAs to consider site-specific considerations and circumstances when determining if a proposed change can be approved through a report of facility information (RFI) amendment, a modified permit, or a revised permit process. Using the decision tree, a proposed change would qualify as a RFI amendment if the change is consistent with all of the following criteria:</p> <ol style="list-style-type: none"> 1) CEQA and no other environmental documentation is needed, 2) State Minimum Standards (SMS), and 3) Terms and conditions in the current SWFP. <p>If the proposed change is not consistent with the three criteria above, it would qualify as a modified permit if the proposed change meets one of the following criteria:</p> <ol style="list-style-type: none"> 4) Is a nonmaterial change that would require a change to the SWFP but would not result in any physical change that would alter the approved design/operation of the facility, or 5) EA has determined that the permit does not need to be changed to include further restrictions, prohibitions, mitigations, terms, conditions or other measures to adequately protect public health, safety, ensure compliance with SMS or to protect the environment. <p>If the EA determines through use of the decision tree that a condition does need to be added to the SWFP to protect public health, safety, ensure compliance with SMS or to protect the environment, then the proposed change is significant and should be processed as a revised permit.</p>
21665(d)(2) and Note (Decision Tree, box 5)	15.1-04	Suggest including “terms” in this section to be consistent with the language added to §21563(d)(6).	Section 21665(d)(2) and Note (decision tree, box 5) were edited by adding “terms” to be consistent with Section 21563(d)(6).
21666	15.1-21	The proposal could be clearer concerning how distinctions between RFI amendments, significant changes requiring a revised permit, and lesser changes requiring only a modified permit, will be made. A key consideration should be to	Section 21665 indicates that it is the EA that makes the determination. Section 21665(b) indicates the options available to the EA in processing a proposed change. Section 21666 includes details of the process used by EAs for RFI

Section #	Commenter #	Comment	Response
		<p>make clear that these determinations are to be made by the LEA, or if proposed to the LEA by an applicant, can be accepted or rejected by the LEA</p> <p>At section 21666, the proposal appears to contemplate that applicant will make the initial determination as to whether a proposed change qualifies as an RFI amendment, with the possibility an LEA may pare down the changes that will be approved on that basis. The section should further provide that the LEA may reject an application for an RFI amendment if the LEA concludes that a permit amendment is needed instead.</p> <p>Section 21666 further provides that an applicant retains a right to appeal. In contrast, at 21665(b) this RFI determination, and the determination as to whether a more significant change should be classified as a "modified" or "revised" permit, are expressly reserved for the LEA, and appeal rights are not expressly addressed.</p> <p>All LEA determinations concerning the classification of applications for processing purposes are interim decisions that do not finally determine the rights of an applicant, whether a permit will be granted or denied, or how a permit may be conditioned. These regulations should make it clear that these interim, procedural LEA determinations are <u>not</u> subject to appeal.</p>	<p>amendments, including denying some or all of the amendments and requiring the operator to submit an application for a modified or revised permit.</p> <p>To address the concern that the public could mistakenly think that non-formal actions taken by the EA would be subject to a PRC Section 44307 appeal, the proposed regulations clarify in Sections 21660.1(a)(6), 21660.3(a)(10) and 21660.4(a)(9) that the noticing on the availability of an appeal process pursuant to PRC Section 44307 applies only to formal discretionary action taken by the EA with regard to the application (i.e., approving RFI amendments or later issuing or denying a modified, revised, or new permit). Because the notice for an RFI amendment would be distributed after the EA has already approved the amendment, the notice would announce that the EA's approval is subject to a PRC 44307 appeal in Section 21660.1(a)(6). The notice for new, revised, or modified permits would be announcing that at a later date when the EA issues or denies the permit, this formal action would be subject to a PRC Section 44307 appeal in Section 21660.3(a)(10) and Section 21660.4(a)(9) for substituted meetings.</p>
21685(b)(4)	15.1-29	Please see commenter 15-1-29 comment regarding Section 21570(a).	Please see response to commenter 15-1-29 regarding Section 21570(a).
21685(b)(6)	15.1-05	The EAC supports all recommendations by Board staff contained in the <i>Draft Response to Comments Received During 60-Day Comment Period</i> pertaining to the relationship of the Solid Waste Facilities Permit to Land Use Entitlements. The Council believes that this approach reinforces the bridge between the Solid Waste Facilities Permit and local planning practices while reducing conflicts between the two processes.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21685(b)(6)	15.1-25	<p>We also support the staff recommendation to limit the relationship between the solid waste facility permit and the conditional use permit (CUP).</p> <p>Regardless of any terms and conditions imposed in the solid waste facility permit, the requirements imposed by the CUP are still binding and local agencies are charged with enforcement of those provisions.</p>	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21685(b)(6)	15.1-04	The LEA supports removing the Land Use and Conditional Use Permits as requirements for a complete and correct solid waste facility permit application. Additionally, the LEA supports the approach taken in §21650(i) that it takes into consideration PRC §44012, which requires the EA to ensure that primary consideration is given to protecting public health and safety and preventing environmental damage, and the long term protection of the environment. The EA should be aware of and take into consideration other permits and approvals when writing terms and conditions. This approach acknowledges the land use permits but does not put an LEA in the undesirable position of enforcing local land use permit conditions through the solid waste facility permit.	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.

Section #	Commenter #	Comment	Response
21685(b)(6)	15.1-28	<p>With this in mind, we support the following elements of the proposed regulations:</p> <ul style="list-style-type: none"> ○ The requirement in the draft regulations that maintains a separation between the solid waste facility permit process and the local land use entitlement process, such as conditional use permits (CUPS). As operators, we must adhere to the most restrictive requirements imposed on the operations by our various permits. Moreover, the local land use authority always has the ability to enforce CUP conditions. 	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
21685(b)(6)	15.1-22 15.1-24	Please see commenters 15.1-22 and 15.1-24 comments regarding Section 21570(f)(9).	Please see response to commenters 15.1-22 and 15.1-24 regarding Section 21570(f)(9).
21685(b)(6)	15.1-03	Please see commenters 15.1-22 and 15.1-24 comments regarding Section 21570(f)(9).	Please see response to commenters 15.1-22 and 15.1-24 regarding Section 21570(f)(9).
21685(c)	15.1-21	Please see commenter 15.1-21 comments regarding Section 21663(a).	Please see response to commenter 15.1-21 regarding Section 21663(a).
21685(c)	15.1-04	Please consider deleting the option of the Executive Director reporting to the CIWMB <u>via a memo</u> regarding the concurrence or denial of modified permits. The spirit of AB 1497 is notification and to increase awareness of solid waste permitting activities. Therefore, the LEA feels that it is more in line with the spirit of AB 1497 to require the Executive Director to report to CIWMB on their concurrence or denial of modified permits at the next regularly scheduled meeting and to post information on the CIWMB's website and agenda.	In addition to reporting to the Board via a memo, the Executive Director can also choose to report to the Board at its regular meetings. Regardless of the mechanism used by the ED in reporting the concurrence or denial information to the Board, the information will be posted on the Board's web site or agenda as notice to the public of the ED's actions.
21685(c)	15.1-29	<u>Assuring an end to the permitting process.</u> If requirements can be identified that fully address all problems associated with a facility, and the applicant agrees to all requirements, the project should be approved. Clarity and an end to the process, even if the answer is no, is of great value. Section 21685 subsection c should be changed accordingly. However, an appeal process should be provided when an applicant disagrees with the Executive Director's decision.	<p>Existing regulation, Section 21685(c), is very clear that the Board shall either concur or object to the issuance of the proposed permit. The Board is required to include with its objection an explanation of its action, which may suggest conditions or other amendments that may render the proposed permit unobjectionable. However, the existing regulations make it clear that the Board's suggestions do not constitute approval of the proposed permit subject to incorporation of the suggestions. Any changes made to the permit to satisfy the Board's suggestions would need to be re-submitted by the EA to the Board for concurrence or objection.</p> <p>Since the Executive Director would be acting on behalf of the Board, the Executive Director would be making the same assessment as the Board, i.e., if the permit meets State minimum standards (and the other requirements of PRC 44009), then the Executive Director concurs. Decisions made by the Executive Director should not be something that can be appealed to the Board, but can continue to be addressed through litigation, just as Board decisions are subject to judicial review now. This is similar to the process for issuing stipulated agreements that allow a temporary waiver from specific terms and conditions of a solid waste facilities permit during temporary emergencies. The EA issues a stipulated agreement, sends it to the Executive Director for review, who may add conditions, limits, suspend, or terminate the stipulated agreement. Actions taken</p>

Section #	Commenter #	Comment	Response
			<p>by the Executive Director are not something that can be formally appealed to the Board.</p> <p>Also, similar to the stipulated agreement process, the Executive Director would be required to report to the Board at its next regularly scheduled meeting on the concurrence or denial of modified permits, as currently required for stipulated agreements, or could report via a memo. Lastly, a notice of the issuance of a modified permit would be posted on the Board's web page or agenda, similar to the required posting of stipulated agreements.</p> <p>The public can appeal the issuance of the permit by the EA to a hearing panel or hearing officer if the EA fails to comply with the Integrated Waste Management Act in issuing the permit. This appeal could be appealed through the appeal process up to the Board for a decision.</p>
17388.4(i) and 17388.5(b)	15.1-29	<u>Minor cleanups.</u> Section 17388.4, subsection i and section 17388.5, subsection b, can be deleted, since it is now past February 24, 2005.	This comment is outside the scope of these regulations.
18104.1(e)(2)	15.1-29	<u>Minor cleanups.</u> Section 18104.1, subsection e(2): SRREs can and should be updated with annual reports. The words "as amended with the annual report" should be added.	This comment is outside the scope of these regulations.
18104.1(h)	15.1-03	Please see commenter 15.1-03 comments regarding Section 21570(f)(11).	Please see response to commenter 15.1-03 regarding Section 21570(f)(11).
18104.2(e)	15.1-29	Please see commenter 15.1-29 comments regarding Section 21563(d)(4).	Please see response to commenter 15.1-29 regarding Section 21563(d)(4).
18104.7(b)	15.1-28 15.1-27	<p>With this in mind, we support the following elements of the proposed regulations:</p> <ul style="list-style-type: none"> o The requirement for the EA to notify all facility operators when they must apply for a five-year permit review of their permit, bringing consistency to the process; 	Comment noted as it does not request or warrant consideration of specific changes to the proposed regulations.
18105.1(g)(1)	15.1-29	Please see commenter 15.1-29 comments regarding Section 21570(a).	Please see response to commenter 15.1-29 regarding Section 21570(a).
18105.1(j)	15.1-03	Please see commenter 15.1-03 comments regarding Section 21570(f)(11).	Please see response to commenter 15.1-03 regarding Section 21570(f)(11).
18105.2(i)	15.1-29	Please see commenter 15.1-29 comments regarding Section 21570(a).	Please see response to commenter 15.1-29 regarding Section 21570(a).
18105.2(i)	15.1-29	<u>Potential confusion.</u> As existing regulations are written, under section 18105.2 subsection i, if the Board is tied, then concurrence is assumed without an affirmative vote. However the Board, as a responsible agency, must also adopt the CEQA document. To avoid confusion, it should be made clear what the status of the CEQA document is under this circumstance. The cleanest way would be to make it "adopted" in this case.	This comment is outside the scope of these regulations.
18105.9(b)	15.1-28	Please see commenters 15.1-27 and 15.1-28 comments regarding Section	Please see response to commenters 15.1-27 and 15.1-28 regarding Section

Section #	Commenter #	Comment	Response
	15.1-27	18104.7(b).	18104.7(b).